IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DIVISION OF THE EASTERN JUDICIAL DISTRICT OF MISSOURI

UNITED STATES OF AMERICA, PETITIONER,

v.

STANDARD OIL COMPANY OF NEW JERSEY ET AL., DEFENDANTS

DEFENDANTS' TESTIMONY

On behalf of the defendants:

Mr. JOHN G. MILBURN, Mr. MORITZ ROSENTHAL
Mr. JOHN S. MILLER, Mr. M. F. ELLIOTT, Mr. MARTIN CAREY, Mr. F. L. CRAWFORD, Mr. DOUGLAS CAMPBELL, Mr. C. W. MARTYN

On behalf of the petitioner:

Mr. FRANK B. KELLOGG, Mr. C. B. MORRISON
Mr. J. HARWOOD GRAVES

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11525 ROOM 515, CUSTOM-HOUSE,

New York City, Friday, November 6, 1908—10.30 a. m.

The hearing was resumed before the special examiner, Hon. Franklin Ferriss, at the above time and place.

Present: On behalf of the petitioner, Mr. Frank B. Kellogg, Mr. Charles B. Morrison. On behalf of the defendants, Mr. John S. Miller, Mr. Chauncey W. Martyn, Mr. F. L. Crawford, Mr. Douglas Campbell.

LOUIS BLAUSTEIN, recalled, and his cross-examination resumed, as follows:

By Mr. MORRISON:

Q. I show you defendants' Exhibit 209, which is the contract which was entered into between you and Mr. Davidson.—A. Yes, sir.

Q. You are familiar with that contract?—A. Yes, sir.

Q. He operated under that, I think you said, about two months?—A. I don't remember the exact—two or three months or two and a half.

Q. Just before that whom had he been operating with?—A. He has been manager for the Crew-Levick Oil Company.

Q. He was the manager for that company when you hired him?—A. No, sir; he left the company when I hired him.

Q. How long had he been away from the Crew-Levick?—A. I don't know that.

Q. He was the manager shortly at least before this contract was made?—A. I could not tell you how short it was.

11526 Q. Well, as manager for Crew-Levick & Company, what were his duties—what did he do? Was he in the office?—A. You will have to ask him that, Mr. Morrison.

Q. Don't you know? You were right there competing with him, weren't you?—A. I don't know a competitor man's duties. I don't know what he was doing there.

Q. What did you see him do? What was he doing?—A. I used to see him on the street, walking around, that is all I saw him.

Q. Soliciting trade?—A. I don't believe I ever saw him, not soliciting personally, to solicit trade.

Q. Do you know whether he was in fact soliciting trade for Crew-Levick & Company?—A. I couldn't tell you whether he was or not.

Q. You understood he was their manager there?—A. That is what he told me. That is what I understood.

Q. When he quit operating under this contract, what did he do after that?—A. I could not tell you that.

Q. Did he go back to Crew-Levick?—A. No, sir. I know that.

Q. Did he continue in the oil business?—A. No, sir; I don't think so.

Q. You think that was the end of it?—A. I believe so.

Q. You did not see him afterward in Baltimore in the oil business?—A. I did not see him in the oil business after that in Baltimore; no.

Q. Where is he now?—A. I could not tell you that, Mr. Morrison.

Q. When did you see him last?—A. I don't remember.

11527 Q. He sold to the dealers, didn't he?—A. Yes, sir.

Q. The oil he bought under this contract?—A. To the same class of trade we all were selling to.

Q. And he had his own wagons, did he, or own wagon?—A. I leased him a wagon.

Q. You leased him; he paid you $15 a month?—A. The contract calls for that, I believe.

Q. I suppose he paid you, didn't he?—A. Sir?

Q. I suppose he actually paid it to you, didn't he?—A. Oh, yes; he paid it.

Q. You could not market oil for a cent a gallon there, could you, successfully?—A. Well, in that time of the year, in the summer time, I could not; no, sir, because this is the dull season—in the summer time—in the oil business.

Q. But he undertook to market it there on that margin and to pay you $15 a month rent for the equipment?—A. Well——

Q. Just answer the question. That is what he undertook to do, isn't it?—A. Just as the contract reads; yes, sir.

Q. How could he market oil cheaper than you could?—A. I don't know that.

Q. He could not, could he?—A. It seems to me he drove the wagon himself, or he had a cheaper man or a boy helping him which we had to pay $2.20 a day.

Q. Did he drive the wagon himself?—A. Many times; yes, sir. He also had some friend of his, a boy; I don't know whether he paid him anything or not.

11528 Q. His own time was worth something, wasn't it?—A. I could not answer for the other man's time, Mr. Morrison.

Q. He did not try to solicit your trade? You excluded him from that in the contract, didn't you?—A. I did, sir.

Q. You drove a pretty sharp bargain, didn't you, with Mr. Davidson here?—A. I did not catch on to that question.

Q. I say you drove a pretty sharp bargain with Mr. Davidson, didn't you?—A. I don't know what you mean by a sharp bargain.

Q. All right. You don't understand what I mean by that question?—A. A sharp bargain; no, sir.

Q. Did he live up to the terms of this contract during the time that he operated under it?—A. He gave up before that.

Q. You don't understand me. Did he live up to the terms of the contract?—A. Yes, sir.

Q. During the time that he operated?—A. Yes, sir.

Q. Now, the Crook contract here, Exhibit 210, is a photograph, isn't it?—A. Yes, sir.

Q. And this was given to you by Davidson, wasn't it, when he came over to operate with you?—A. He asked me if I have seen the contract, the original. I told him——

Q. Oh, just answer my question. This was given to you, was it not——

Mr. CRAWFORD. What do you mean by "this," Mr. Morrison?

Q. Well, the witness has not any doubt about what I mean. I call his attention to the exhibit that I hold in my hands.

Mr. CRAWFORD. Do you mean this exhibit, and not the original contract?

11529 Q. No; I mean the contract.—A. He asked me if I wanted to see the original contract.

Q. I have not asked you anything about conversation. I am asking you whether or not Mr. Davidson turned over to you the contract of which this is a photographic copy.—A. I certianly did not take it out of his pocket. He must have turned it over to me.

Q. I have not asked you that. Will you answer my question?—A. Yes, sir.

Q. Did he or didn't he?—A. He did. It was the only way to get it in my possession.

Q. Now just confine yourself to answering my question. Do you know where he got it?—A. I did not know where he got it. It was his contract. It was his name signed to this contract. I did not ask him.

Q. It was a contract in which Crew-Levick & Company were the parties, weren't they?—A. Yes, sir; but he signed it. He was manager.

Q. Yes; I know it. Did he tell you how he got it?—A. No, sir; I did not ask him.

Q. You did not ask him. When did you get this copy?—A. It was some time in May, after Davidson leased his wagon from me.

Q. It was all a part of the same transaction, wasn't it; that is, this contract—Exhibit 209—between you and Davidson——A. No, sir.

Q. And the turning over of this photographic copy to you was all a part of the same transaction, wasn't it?—A. No, sir. This was later.

11530 Q. Which was first?—A. The contract with Davidson was first.

Q. He turned that over to you first?—A. The contract with Davidson.

Q. Oh, he made the contract first?—A. Yes, sir.

Q. How long before he turned over the other contract to you?—A. Oh, you mean——

Q. The one of which this is a photographic copy.—A. I can't remember the exact time, how long after it was, but it was some time later.

Q. Was Davidson willing that you should photograph this contract——A. Yes, sir.

Q. And circulate it?—A. Yes, sir. I told him to let me have this contract for a day and I will have it photographed, and I told him why I wanted to have it photographed, and he said "All right, go ahead and do it."

Q. That was so you could show it to customers of Crew-Levick & Company?—A. Yes, sir.

Q. And Davidson was a party to that arrangement? That is, he consented to it?—A. Yes, sir.

Q. Did Davidson call upon the Crew-Levick trade with his wagon?—A. I could not tell you that. I was not with him. I don't know to whom he sold.

Q. Do you know what his route was?—A. No, sir. He was privileged to go to anybody's customer except mine.

Q. Did Davidson circulate any of these contracts, too?—A. Not that I know of any.

Q. Did you turn over any to him?—A. I don't remember. I don't think so, because he had the original. Why should

11531 I give him this contract?

Q. Did you or did you not give him any of these photographic copies?—A. I don't think I did. I don't remember.

Q. This man Crook, I think you said, owned 18 stores in Baltimore?—A. In that neighborhood; yes, sir.

Q. What is that?—A. About that amount.

Q. All grocery stores?—A. All grocery stores.

Q. And all of them handling oil?—A. I could not swear to that, that they all handled oil.

Q. Well, they were all grocers, were they?—A. They were selling groceries; yes, sir; meats, and feed, etc.

Q. Hardware?—A. No, sir; I don't know of any hardware.

Q. Didn't you make any contracts for reduced prices yourself before that?—A. I may have done so. I don't know. I don't remember.

Q. Isn't your memory good upon that subject?—A. Not exactly on that subject. If there is any contract I have made I would like to see it, and I can explain it fully.

Q. The question is whether you made any contracts?—A. I don't remember.

Q. Then you may have made some?—A. I may; but if I have done so, I have done it to hold my trade in line.

Q. Just answer the question. Have you any idea how many you made?—A. No, sir; I have no idea.

Q. Did you make any that you wanted kept confidential?—A. No, sir; I don't believe I did.

11532 Q. Now, let us see if you didn't. (Paper marked "Petitioner's Exhibit 939.") I show you petitioner's Exhibit 939, and ask you whether or not you made that contract. Look at the signature and see if that is your signature. Is that your signature?—A. Yes, sir.

Q. Well, you made that contract?—A. It is not exactly my signature, but I know all about this.

Q. Isn't it exactly your signature, and isn't it signed by yourself?—A. No, sir; it is signed by one of my men. I know who signed it. I suppose I authorized him to sign it.

Q. You are sure that is not signed by yourself?—A. I am positive of that.

Q. What did you mean by putting in this contract this sentence: "And to keep this agreement confidential or forfeit his rights to this purchase?"

Mr. CAMPBELL. One moment.

Mr. CRAWFORD. I object to the question, as reading into the record part of a written paper that has not been offered in evidence.

A. Read the question, please.

(The reporter read the question, as follows: "What did you mean by putting in this contract this sentence: 'And to keep this agreement confidential or forfeit his rights to this purchase?'")

A. As I have stated previous, that as soon as J. W. Crook made a contract with the Crew-Levick Oil Company, he reduced his market to half a cent. This party Bittner was a neighbor
11533 to J. W. Crook. He was on Cross street, and Crook had a store right near Cross street. I was compelled to hold my trade in line, and I gave all my customers a similar contract like this—I believe I did—but I did not want this contract to come out amongst other people, because they would have called on me to give them the contract. But I was obliged to protect my trade and hold them in line; but this was done after Crook reduced his market.

Q. Well, you did not get this contract of Davidson, you said, until May?—A. But I have seen Mr. Crook's contract before it was signed.

Q. You had seen this contract?—A. Yes, sir.

Mr. CAMPBELL. Mr. Crook showed it to you?

WITNESS. Yes, sir.

Q. As I understand you, then, you made contracts of this kind with all of your customers?—A. Oh, about as many who were close to Crook's stores.

Q. Oh, yes. Well, you gave them better rates than you did those that were not close to his store, did you?—A. I didn't hear that question.

(The reporter read the question.)

A. Well, there may have been some trade far away from Crook, which I would not say I did or I did not. I don't remember that; but I did give a good many of those contracts to people to help them along, because I have been waiting for Crook to change his price almost every day.

Mr. MORRISON. I offer in evidence petitioner's Exhibit 939.

11534 Q. Did you make any contracts of that kind before you saw the Crook contract?—A. I don't believe I did.

Q. Will you say you didn't?—A. I would not say I did or I did not; I don't remember that.

Q. When did the Eagle Oil Company start into business in Baltimore?—A. The beginning of 1901.

Q. Did you make any contracts of that character in the year 1903?—A. I don't remember that—making any. I would not have remembered this if you not have showed me the contract.

Q. Now, I call your attention again to this postal card, petitioner's Exhibit 758, and ask who this J. D. Oglesby is, of Waynesboro, Pennsylvania, to whom this card was written?—A. I don't know the gentleman; never met him. This postal card must have been written asking inquiries—making inquiries, rather—for the price of oil.

Q. Well, writing how, making inquiries as to the price of oil?—A. He wrote to me, to the company, to make inquiries——

Q. Oh, yes.—A. As I understand, that postal card reads "In reply to yours."

Q. What do you mean by this sentence: "We are strictly independent of trusts?"—A. I have explained that yesterday.

Q. That is what I would like to have you explain now.

Mr. CRAWFORD. He has explained it already.

A. And he must have asked me in his letter.

Q. Oh, no; just answer my question. What did you mean by that sentence?

Mr. CRAWFORD. That is a part of his explanation. Give him a chance.

11535 A. He must have asked me in his letter if I have any connection with trusts, which I didn't mean what he meant or how he meant. According to my view of that point, that we were not trusts, as you remember I stated yesterday about the Standard Oil Company being independent, according to my idea. I think I have a right to answer the man that we are independent of trusts, because I didn't know to whom he was alluding, to the trusts. I didn't answer him that I am independent of the Standard Oil Company.

Q. Whom did you mean when you said you were independent of trusts?—A. I must have answered the same as he asked me. He must have asked me whether we are independent of trusts.

Q. Oh, well, you say he must have. Do you remember anything about it?—A. I do remember that I would not write a man that we are independent of trusts unless he asked me about it.

Q. Have you got that letter?—A. No, sir.

Q. You don't even remember who the man is?—A. I never knew him; I never saw him. We used to get a good many of those inquiries for oil.

Q. Suppose he had asked you if you were independent of the Standard Oil Company, what would you have said?

Mr. CRAWFORD. One moment. I object to that as incompetent, hypothetical, and not a proper question. It makes no difference what this witness would have done. The question is what did he do, what is the fact?

A. I can't tell you what I would have stated at that time. I don't know.

Q. You don't know what you would have said. Well, you regarded yourself, didn't you, I understood you to say yesterday, as independent of the Standard Oil Company?—A. Oh, I used to tell the people, as far as independent was concerned, the Standard Oil Company are the only independent people in the oil business.

11536

Q. That does not answer the question. You regarded yourself as independent, didn't you, and your company as an independent company?—A. I don't understand the question by regarding myself. You mean I went out to tell the people that I am independent?

Q. No; you understood yourself to be an independent company?

Mr. CRAWFORD. I object to that as immaterial and irrelevant.

Mr. CAMPBELL. And misleading.

Mr. CRAWFORD. And misleading.

Mr. CAMPBELL. Independent of whom?

WITNESS. Read the question to me again, please?

(The reporter read the question as follows: "You regarded yourself as independent, didn't you, and your company as an independent company?")

A. I never—the question used to arise about independent. I used to explain what independent means, what I mean by my word, telling them I am independent, but I never——

Q. That does not answer my question. I am not asking you how you used to explain. I am asking you whether you understood yourself to be operating an independent company at the time you wrote this postal card.

Mr. CRAWFORD. Same objection. It is absolutely immaterial to this case what this witness thought.

Mr. CAMPBELL. And he has already testified that the name under which he operated was not a company, that he was part of the Standard Oil Company.

11537

A. According to my view I was an independent oil company.

Q. What did you mean here, and to whom did you refer, when you used the word "trusts" in this postal card?—A. I must have answered in the same wording that he wrote to me.

Q. You don't remember what he wrote to you?—A. It is the only time or the only way I would have answered him that, unless he did ask me whether I am independent of trusts.

Q. What did you mean when you said you were independent of trusts?—A. As I have stated before, according to my view I was independent, and I never recognized the Standard Oil Company to be a trust. I was never told so.

Q. What company did you understand to be a trust?—A. I didn't know to whom he was alluding in his letter.

Q. You don't know that he alluded to anybody, do you?—A. Why, I simply answered the wording which he gave to me.

Q. You have said two or three times that you did not remember what he did write you, haven't you?—A. He must have wrote me; otherwise I would not answer that.

Q. No, no; you have no recollection? I am not asking you what he must have done. I am asking you now for your recollection.—A. I believe he did.

Q. Do you remember it?—A. Or otherwise I would not have answered him that.

11538 Q. No, no; I am not asking you that. Do you remember a single word or sentence in the letter that was written you by Oglesby to which this card is a reply?—A. I do not.

Q. You do not?—A. No, sir.

Q. Did you understand that there were any trusts at that time in the oil business?

Mr. CRAWFORD. The question is objected to because it is obscure, ambiguous, and indefinite, there being no definition of the word "trust," it never having been determined what a trust is, and this witness and no other witness could have known then or now what such a phrase meant.

A. No, sir; I did not.

Q. You did not know what a trust was, did you?—A. No, sir; I did not.

Q. Did not know what the word trust meant as applied to oil dealers?—A. Well, I have heard of saying the word trust mentioned, but I never knew really the meaning of a trust.

Q. You didn't know what it meant?—A. But I was positive that the Standard Oil Company, according to my knowledge, were not a trust.

Q. That if there were any trusts in the oil business, it was not the Standard Oil Company; that was your understanding and belief at the time?—A. Oh, I could not say to that. I don't know. There may have been a trust in the oil business, but I didn't know.

Q. Well, were you referring to those trusts that you did not know about——A. I may have done so.

11539 Q. In replying to this letter?—A. I may have done so. I am almost positive I answered the question as he asked me in his letter.

Q. Did you ever hear the Standard Oil Company called a trust?

Mr. CRAWFORD. I object to that as immaterial and irrelevant.

A. Oh, I have seen newspapers a good many times mention the name "Standard Oil Company trust."

Q. Yes; didn't you hear it in the trade as you went from one customer to another?—A. Yes, sir.

Mr. CRAWFORD. Same objection.

WITNESS. But after I used to explain to them according to my view that they were not a trust, they believed me that they were not a trust.

Q. What explanation did you make to your trade to satisfy them that the Standard was not a trust?—A. That was what I was never told—that they were a trust.

Q. What is that?—A. I was never told they were a trust.

Q. You were not. I thought you said a moment ago you read it in newspapers, and you heard it as you went from one customer to another?—A. But the Standard Oil Company never told me they are a trust.

Q. I am not talking about that. What explanation did you give to these customers when they told you that the Standard Oil Company was a trust?

Mr. CRAWFORD. I object to that as immaterial and incompetent and involving a term undefined and obscure.

A. It all depends who the customer was.

11540 Q. Go ahead and tell.—A. If the customer told me the Standard Oil Company is a trust or I am a trust, I used to explain to him the benefit of the Standard Oil Company.

Q. How did you explain the matter to him so as to satisfy him that the Standard was not a trust?—A. I was not arguing with that man about the trust business. I was arguing the oil business, and I told him as a matter of fact the majority of them is a trust, as far as I know.

Q. All of them are trusts as far as you know?—A. As far as people say. Of course I never believed it. I didn't know it was a trust and what it meant, but I never argued with a man about a trust. All that I argued with the merchant is to buy oil from me.

Q. But when a man told you right to your face that the Standard Oil Company was a trust, what did you say to him?—A. I used to tell him to drop the trust business and let us talk oil.

Q. Oh, yes; you dropped the subject.—A. Yes.

Q. You never did try to explain, then, to your trade why the Standard was not a trust?—A. I could not; I was not told they were not and I was not told they were.

Q. How is that?—A. I was not told that they were a trust, nor was I told that they were not a trust.

Q. You were not told by whom?—A. By the company.

Q. I am talking about what you were told by your customers.—A. I used to tell them not to argue trusts with me; that I am not there to argue trusts with them; that I am not enough posted

11541 in the trust business; I can talk to him oil all he wants, but as far as trusts is concerned, to ask somebody who knows more than I do.

Q. Did you tell him the Standard was not a trust, ever?—A. According to my view I told them; yes, sir. I didn't believe they were a trust. I was never told them to be a trust.

Q. You never told the Standard that they were a trust?—A. No, sir.

Q. And for that reason you did not think they were a trust?—A. For that reason I didn't believe they were a trust; no, sir.

Q. You thought if they were a trust they would have told you so?—A. I thought they would. They may; I don't know.

Q. Did the Standard tell you they were not a trust?—A. No, sir.

Q. But you say you were convinced that they were not a trust?—A. I did not hear that. Read the question to me, please.

(The reporter read the question, as follows: "Did you say you were convinced that they were not a trust?")

A. Personally, in my own ideas.

Q. What convinced you that they were not a trust?—A. Well, I can't explain you that.

Q. You don't know?—A. I don't know.

Q. Did Oglesby explain to you in his letter what he meant by trusts?—A. I don't believe it was. I must have answered the same wording that he asked me, or otherwise I would have explained him in that postal card what he meant by it.

Q. You would have written back and asked him if he had not explained what he meant by trusts; you would have written back to him and asked him what he meant?

11542 Mr. CRAWFORD. He did not say that.

A. I may have done so.

Mr. CRAWFORD. I object to that as misrepresenting the testimony.

Q. I am asking this witness a question.

Mr. CRAWFORD. You have no business to misstate his evidence. He has not said what you say. He said quite the contrary.

Mr. MORRISON. If you think you have sufficiently instructed him, we will go ahead.

Mr. CRAWFORD. I don't propose to let you misstate the testimony.

Q. I will put the question to you. If he had asked you if you were independent of the trusts, would you have written back to him to find out what he meant by the word "trusts?"—A. I maybe would have done so. I don't know what I may have done at that time.

Q. You would have been up a stump. You would not know how to answer him, would you?

Mr. CRAWFORD. I object to the question.

A. I would have waited until the next letter to see what he explains me in that letter.

Q. You would have written to him, then, for an explanation and waited for the letter?—A. I maybe would have done so. I don't say I would do it. I can't tell you what a man would have done ten years ago.

Q. If he wrote you asking if you were independent of the trusts, it is quite likely, then, that you wrote back to him

11543 before answering him, asking what he meant by trusts, isn't it?—A. No, sir. I must have wrote this postal card when I was in a hurry, according to my signature, and I must have answered to him as he asked me in his letter.

Q. Without knowing what he meant, did you answer him?—A. I just answered according to his language, if I am independent of the trusts. I told him I am independent of trusts.

Q. And yet you didn't know what a trust was?—A. Well, maybe there was a trust. I don't know.

Q. You didn't know what a trust was when you wrote that postal card, did you?—A. I didn't know what he meant, but I simply answered his letter.

Q. Were you located at Winchester at that time, with the Southern Oil Company?—A. I must have been. The postal card is dated Winchester, isn't it?

Q. This Southern Oil Company did business at Winchester, didn't it?—A. It did.

Q. Did you operate any other company at Winchester?—A. No, sir.

Redirect examination by Mr. CRAWFORD:

Q. You have been asked a number of questions here about the reasons why you went to Norfolk and engaged in business there, and also why you took the name of Eureka. Now, I want you to state again what took place in that connection; and first tell me, as nearly as you can, the conversation you had with Fivel, when you started out with him to go around his route in Norfolk.

11544 Mr. MORRISON. That is objected to because it was all gone over in the direct examination.

Q. Well, we will go over it again. Go on.—A. Mr. Crawford, I can't explain exactly the words, but when I went along with Mr. Fivel he suggested to me it would be a good idea for the company to put this company under a different name, and I asked him the reasons, and he told me because the merchants, some of them, are prejudiced against the company for different reasons which I have stated. He also told me at the time that he would not like for the merchants or his creditors to know that he sold out to the Standard Oil Company. I suppose they will ask him for the money at once, and so forth.

Q. Did he have any different business than that of selling oil?—A. A grocery store.

Q. Was he going to continue in the grocery business?—A. He remained in the grocery business; yes, sir.

Q. He did continue in the grocery business?—A. Yes, sir; while I was working there in Norfolk.

Q. Did he say anything to you about being in debt?—A. Yes, sir; he did tell me. He said: "I am getting very little money from the business, and the people, when they hear I have sold out to the Standard Oil Company, they will jump on me for the money, which I am not able to pay them at once, but I will pay them in time."

Q. What did you understand him to mean by referring to the prejudice against the company?—A. That the people over in Nor-

11545 folk—rather the merchants—have been neglected by keeping up the 20-gallon system, also about the colored drivers. They were not prejudiced so much against the company as they were on its local management.

Q. Against what?—A. The local management.

Q. When you saw Mr. Powell at a subsequent occasion, did you report to him what Mr. Fivel had said to you?—A. Yes, sir.

Q. Will you state your conversation with Mr. Powell?

Mr. MORRISON. That is objected to because it was all gone over in the direct examination; the entire conversation was given.

Q. You may go over it again.—A. I have reported to Mr. Powell that Fivel suggested to put this company under a different name, for reasons which I have given, about being prejudiced against the local management. Also I told him about him personally; that it may hurt his business; that he will prefer having this with another name instead of direct with the Standard Oil Company.

Q. Did you say anything to Mr. Powell on this occasion about the name that you had selected?—A. Yes, sir; I told him just what I have seen there, that was the Eureka harness oil, and I thought at the time that Eureka would be a good name, and he told me to go ahead and do business under the Eureka, "and Mr. Farquharson," he says, "will get busy and do some more business there."

Q. Why did you understand that it was necessary to do business there in Norfolk under a different name in order to stir up Farquharson or to make Farquharson get busy, as you say?

Mr. MORRISON. That is objected to because the witness
11546 has fully testified on the subject on the direct examination and did not change it on the cross.

WITNESS. I would like to——

Q. I am not asking you to change anything. I am just asking you to restate the story, which is somewhat confused by the long cross-examination. I want you to just restate the facts now.—A. I would like to hear this question again, please.

(The reporter read the question, as follows: "Why did you understand that it was necessary to do business there in Norfolk under a different name in order to stir up Farquharson or make Farquharson get busy, as you say?")

A. Because he could not organize another Standard Oil Company there to make Farquharson get busy. He had to put in another name, and to show the merchants that really it was not the Standard Oil Company's fault, that it is its local management's fault.

Q. Why was it necessary to have a separate organization there in Norfolk at all in order to stir Mr. Farquharson up?—A. Because we could not do business—I could not go out and do business under the Standard Oil Company, and that will confuse the business in town.

Q. Suppose you had. What would have happened as to your relations with Mr. Farquharson? I mean to say, would Mr. Farquharson have been in a position to tell you what to do?—A. Yes, sir; I must have been working under Mr. Farquharson. That is the only way I could——

Q. Why?—A. Because Mr. Farquharson, as a rule, when
11547 the Standard Oil Company appoints an agent, as far as running the business is concerned—what I mean by that, it is how to canvass the trade, how many wagons to put on the street, or the system in generally, to hold him personally responsible for it; and if

I were going in there, it would look like the company interfering with his business.

Q. Well, the special agent in such a case as that, was in command, was he, in the place where he was; I mean of the business of the Standard Oil Company?—A. Yes, sir; he had entirely charge of that line of business.

Q. If you had gone there and attempted to do business under the name of the Standard Oil Company, wouldn't you have been under Farquharson's orders?—A. That is the only way I could have been there.

Q. Mr. Morrison asked you yesterday about your conversation with Mr. Moore, on the occasion when he introduced the subject of selling out the Southern Oil Company. The minutes of the direct examination made you testify as follows: "He (referring to Mr. Moore) said 'Are you going to continue business selling in barrels?'" Have you anything to say about that part of your testimony?—A. I do not remember the exact words, and I don't think I gave those words here. However, I don't remember that. I may have done so; but what I meant is that Mr. Moore asked me how long I am going to continue to sell oil in the tank wagons—from the tank wagons—put down from the tank wagon—by pumping out from barrels.

Q. As a matter of fact, were you selling in barrels?—A. No, sir; not while I was with the Argand Refining Company, not a barrel.

11548 Q. How were you handling oil at that time?—A. I used to pump out from barrels with a rotary pump into the tank wagon.

Q. You received the oil there first in barrels?—A. In barrels; yes, sir.

Q. And pumped out of the barrels?—A. Yes, sir.

Q. Into the tank wagon?—A. Yes, sir.

Q. In regard to the customers whom the Eagle Oil Company obtained in Baltimore, and some of whom I understood you to say were not those whom you had previously had, were those customers who were new customers to you of the same class of trade, the same class I mean as to nationality, race, etc., as the other customers whom you had previously had?—A. Yes, sir; a good many of them, but I could not say if they were all of them or not. A good many of them were of the same class of trade.

Recross-examination by Mr. MORRISON:

Q. You now say that you also told Mr. Powell, as a reason why you should take another name than the Standard in Norfolk, that Fivel did not want it to be known in Norfolk that he had sold to the Standard. Is that right?—A. I explained to Mr. Powell——

Q. No, just answer my question. Read the question to him.

Mr. CAMPBELL. One moment. That is objected to upon the ground that it assumes that the witness has not already testified previously to the fact.

(The reporter read the question as follows: "You now say
11549 that you also told Mr. Powell, as a reason why you should take another name than the Standard in Norfolk, that Fivel did not want it known in Norfolk that he had sold to the Standard. Is that right?")

A. I told Mr. Powell the reason Fivel gave me.

Mr. MORRISON. Wait a moment. I ask to have the question again read to the witness. I want an answer to that question.

A. I did tell Mr. Powell that was Fivel's reason, why he suggested a new name.

Mr. MORRISON. Will you please read the question again to the witness?

(The reporter again read the question.)

Mr. CRAWFORD. Wait a moment. I object to that as not properly representing the witness' testimony. He has not stated that that was the reason. He stated what took place.

WITNESS. I would like for you to read me if I did not give Fivel's reason to Mr. Powell.

Mr. CRAWFORD. You mean you would like to have the minutes of your previous answer read?

WITNESS. Yes, sir.

Q. Oh, well, we are not going back to read your testimony over to you. I am asking you a simple question now.—A. You may ask me something which I did not say, Mr. Morrison.

Q. Well, you can answer it, if I did.

Mr. CRAWFORD. You are putting a glass on his testimony and trying to catch him.

Mr. MORRISON. Oh, no, no, I am not trying to catch him.

Q. Can you answer that question or not. If you can't, say
11550 so.—A. I have told Mr. Powell that Fivel's reason was which I have stated.

Q. Why didn't you tell that in the direct examination when you were asked to tell here what you said to Mr. Powell?—A. I could not remember all those things. If I will be on the stand for three more days, I may remember——

Q. You thought of that since, did you?—A. Yes, sir. It came to my mind naturally, being so long ago.

Q. Did you tell Mr. Crawford or any of the attorneys for the Standard Oil Company, that that had come to your mind?—A. I believe I did.

Mr. CRAWFORD. He testified to it under your cross-examination.

Q. And when did you tell them?—A. Oh, we were talking—I don't remember exactly when—yesterday or this morning, about other things, that we talked over the matter.

Q. Have you read over your testimony since you gave it?—A. I did not, not from yesterday.

Q. None of yesterday's?—A. No, sir.

Q. You read over your direct examination, didn't you?—A. Just a part of it. I have not read all.

Q. Have you read Mr. Farquharson's testimony given in this case?—A. I believe I did, but do not remember the exact——

Q. You have read Mr. Mahle's testimony given in this case?—A. I believe I did. I don't remember exactly if I read it all or not.

Q. Did you read Mr. Cooper's?—A. I believe I did, just as I did others.

11551 Q. Did you read Mr. Metzel's testimony?—A. As I stated before, I may have, but I could not——

Q. I am asking you whether you did or did not?—A. I believe I did.

Q. Why do you say "believe?" Don't you know whether you did or not?—A. I have read so many books in the Standard Oil Company's office that really many times I don't know what I am reading.

Q. So you don't know now whether you read over the testimony of all these witnesses or not?—A. I am telling you to the best of my knowledge I believe I did.

Q. You believe it, but you are not positive?—A. I could not say if I read it all or not, but I am positive I have read some of all of them.

Q. Now, you also gave as a reason why you took the name Eureka that if you had not taken that name you would have been compelled to work under Mr. Farquharson?—A. Yes, sir.

Q. That was one of the reasons, was it?—A. That is my own reason. That is what I gave him myself. I think that is the reason.

Q. Did not Mr. Powell say anything about that?—A. Mr. Powell told me to go ahead and do business there under the Eureka Oil Company.

Q. Did you tell Mr. Powell that if you did not use the name Eureka you would have to work under Farquharson?—A. Well, Mr. Powell always——

11552 Q. Answer my question. Did you tell him that?—A. I don't remember that.

Q. You don't remember that?—A. No, sir.

Q. Did Mr. Powell say anything to you upon that subject?—A. I believe he did say that if I would go to do business there under the Standard Oil Company I had to work under Farquharson, because he is entirely in charge of it.

Q. That is one of the reasons that he gave you why you should adopt the name Eureka——A. I believe so.

Q. Or some other name?—A. I believe so.

Q. Have you since your examination yesterday learned anything more about what Mr. West's present position is with the Standard Oil Company?—A. No, sir.

Q. You don't know?—A. I don't think I do.

Q. When did you last see Mr. West?—A. Oh, for a good many years. I don't remember the year. I have not seen him for some time.

11553 GEORGE E. PARSELLS, recalled on behalf of the defendants, testified as follows:

Direct examination by Mr. CAMPBELL:

Q. You are the George E. Parsells who testified previously in this case?—A. Yes, sir.

Q. You were in the employ of the Standard Oil Company at Washington in 1904?—A. Yes, sir.

Q. And what was your position there at that time?—A. Supervisor of the warehouse and plant.

Q. What were the duties of that position?—A. Looking after the stock, shipments, loading the wagons, and looking after the plant in general, the building.

Q. Did you come in direct contact with the trade as an ordinary thing?—A. No, sir; not in 1904.

Q. I direct your attention to a portion of your testimony on cross-examination by Mr. Kellogg (page 8898 of the type-written record), where your examination reads as follows: "Q. Now, you say that the Columbia reduced the prices to those towns around Washington to the same as the Washington price?—A. Yes, sir. Q. They did not cut your price in Washington, did they?—A. With the exception of this man Acton, that I know of. Q. Where was his place?—A. In Anacostia. Q. That is not in Washington, is it? That is over across the bay?—A. Oh, no; it is a near suburb of Washington; it is practically the same as Washington now." Did you mean to convey the impression by that testimony that the Columbia Oil Company at Washington cut the Standard Oil Company's price to your knowledge only in the one case to which you had testified, namely, that
11554 of the man Acton?—A. No, sir; I did not; I was not in a position to know whether they were cutting prices at any other place, but it was——

Q. How did you happen to know of that one instance of price cutting on the part of the Columbia?—A. Mr. Acton came to the warehouse to order oil on several different occasions, and on each time he stated the fact that he was getting a half a cent rebate, and if we would give him the same he would give us his business.

Q. So that even though the Columbia were cutting prices generally at Washington at that time, you in your position, in the course of your business, not coming in direct contact with the trade, would not be in a position to have primary knowledge of that fact?—A. No, sir.

Q. Is that true?—A. That is true; but it was generally understood from the drivers, you know, that they were doing that.

Mr. KELLOGG. Don't state about what was generally understood. You are to talk about what you know.

Q. It was generally understood from the drivers?—A. Yes.

Q. That what?—A. That the Columbia were cutting prices in other parts of the city.

Q. What time was that?—A. 1904.

Q. What was your position with the company in 1901, three years previously, at Washington?—A. I had charge of the sales of refined oil and gasoline, and the collections.

Q. In that position did you come in contact with the trade?—A. I did.

Q. And had direct and personal knowledge of prices?—A. I did.

11555 Q. And of cut prices by the competitor?—A. Yes, sir.

Q. Do you remember the course of prices at Washington in 1901, or have you before you figures showing the Standard Oil Company's prices throughout that year? [Handing witness paper.]—A. Yes, sir; this is a list of prices taken from our sales sheet.

Q. Will you kindly read or state the prices from month to month during that year?—A. January 8 cents, February 8, March 8, April 6½, May 6, June 5½, July 5, August 5½, September 5½, October 5½, November 5½, and December 6.

Q. Have you refreshed your recollection recently from your records or from talking with your old employees, or otherwise, as to what the competitive conditions were at Washington during that year?—A. I surely have.

Q. Can you explain the reasons for the decline in the Standard Oil Company's price at Washington from 8 cents in January, 1901, to as low as 5 cents in July of that year?—A. Yes, sir. The Independent Oil Company, which was in business at that time in Washington, would go around to our best customers and offer to sell them all their oils at a half a cent below the regular Standard Oil Company price, regardless of what that was.

Q. When did the Independent begin doing business in Washington?—A. Began doing business about the first of January, 1891.

Q. 1891 or 1901?—A. 1901.

Q. And did they immediately begin cutting your price?—A. They did.

Q. How much at a time?—A. Half a cent.

Q. How did you learn of those cut prices made by the

11556 Independent?—A. By talking with the trade.

Q. Any other way? How did you first hear of it?—A. From the trade.

Q. In reports from your salesmen?—A. And reports from my salesmen on the street.

Q. You had salesmen under you?—A. Yes, sir; salesmen and tank-wagon drivers.

Q. Upon receiving reports from your salesmen about cut prices by your competitor, what efforts would you make to ascertain whether their reports were correct?—A. I generally visited the trade myself after that.

Q. And satisfied yourself——A. And satisfied myself that their reports were correct.

Q. Did you then report those cut prices to your superior officers?—A. Yes, sir.

Q. And to whom did you make such reports?—A. I. G. West, Baltimore, Maryland.

Q. What then took place with respect to your price?—A. Why, sometimes it would be a month or six weeks, sometimes ten days, when we would get orders to reduce our price to the competitor's price.

Q. Did you ever get orders to reduce your price below the competitor's price?—A. No, sir.

Q. Was your price always reduced to as low a point as the competitor had previously gone?—A. Yes, sir.

Q. It always was?—A. As a rule I think it was; yes, sir.

Q. Did the Independent Oil Company take away any of your trade during that year?—A. They did.

11557 Q. And did they hold it?—A. Yes, sir.

Q. It appears from Government's Exhibit 635 in this case, that the price of the Standard Oil Company at Washington, in the early part of the year 1902, was 6 cents a gallon, and that that low price continued throughout the summer of that year. Was the Independent Oil Company cutting your prices there throughout that year?—A. Yes, sir.

Q. This exhibit shows that those prices of yours at Washington ranged from 6 cents to 8 cents throughout the year 1902. Were those prices or was any one of those prices at any time throughout that year lower than the Independent Oil Company's price at the same time?—A. No, sir; they were not lower, to my knowledge.

Q. The Independent Oil Company was doing business there throughout at least a part of 1901 and 1902 and 1903, was it not?—A. Yes, sir.

Q. I ask you to look at defendants' Exhibits 212-A and 212-B and state what those papers are.—A. These are tissue copies of my daily reports of December 23, 1902, and September 11, 1903.

Q. Reports made to whom?—A. Reports made to I. G. West, Baltimore.

Q. December 23, 1902, did you say?—A. Yes, sir.

Q. In that report I notice you say: "The Independent Oil Company's tank wagon visited Brookland, D. C., last week, and sold the following parties," naming four groceries, "at 9 cents a gallon." "Our price at Brooklyn is 9½ cents." How did you obtain that information?—A. By calling on those people.

Q. This was what they told you?—A. This was what they told me, all of them.

11558 Q. Did they show you any tickets or invoices?

Mr. KELLOGG. That is objected to as incompetent and hearsay.

A. I don't remember whether they did or not.

Q. How far is Brookland from Washington?—A. Three miles.

Q. And it takes the Washington price?—A. At that time our price at Brookland was half a cent above the Washington price.

Q. In the report dated September 11, 1903, you state: "The Independent Oil Company visited Bladensburg, Maryland, to-day, and cut our price ½ cent."

Mr. KELLOGG. That is objected to as hearsay.

Q. "Sold J. E. Edlavitch 20 gallons of oil and M. Solomon 40 gallons of oil on account of price."—A. Yes, sir.

Q. How did you obtain that information?—A. From Mr. Edlavitch and Mr. Solomon.

Q. How far is Bladensburg from Washington?—A. About 6 miles or 5½ miles.

Q. How did the prices there compare with the Washington price?—A. We were half a cent higher or above the Washington price in Bladensburg.

Mr. CAMPBELL. I offer in evidence defendants' Exhibits 212-A and 212-B.

Mr. KELLOGG. They are objected to as incompetent.

Cross-examination by Mr. KELLOGG:

Q. You were asked if you cut the prices below the Independent Oil Company, and you said not to your knowledge.—A. No, sir.

11559 Q. What do you mean by that?—A. I mean that the Independent Oil Company sometimes had several different prices; if they had a customer that they thought they could get more than the Standard Oil Company's price from, I dare say they would get it.

Q. You don't know that you did not make prices below theirs, do you? How could you know?—A. I didn't find any, and I was visiting the trade all over the city every day.

Q. All you know about the prices is what the customers told you?—A. That is what I know.

Q. And you know you were selling oil at 5 cents a gallon?—A. Yes, sir.

Q. And you know that you had reduced it from 8 cents a gallon in January to 5 cents in July?—A. Yes, sir.

Q. And you know there was competition on between you and the Independent?—A. Yes, sir.

Q. The customers told you that the Independent cut your price, and that is all you know about it, isn't it?—A. Oh, there are a great many cases where I saw the tickets at that time, but I don't know as I can recall any special case.

Q. You can't recall any tickets now?—A. I do recall several cases.

Q. You say you have looked up the records. What records have you looked up?—A. The sales sheets, invoices, daily reports, all the records of the office.

Q. Are they still preserved in your office in Washington?—A. Some of them are.

Q. Where did you find the rest of them?—A. In the loft of the stable.

11560 Q. Well, they are preserved in Washington?—A. Yes.

Q. Who is Mr. West, to whom you say you reported?—A. Mr. West at that time was special agent in Baltimore.

Q. What territory did Mr. West cover?—A. I could not give you that.

Q. You do not know?—A. Baltimore and Washington; outside of that I could not tell you exactly.

Q. All of Baltimore?—A. All of Baltimore, I think so, yes, sir.

Q. How long had he been in that position in 1901?—A. In 1901 I think about a year, perhaps.

11561 BRUCE ROBINSON, recalled on behalf of the defendants, testified as follows:

Direct examination by Mr. CAMPBELL:

Q. You have testified before in this case?—A. Yes, sir.

Q. Have you been employed by the Standard Oil Company at Baltimore since 1903?—A. Yes, sir.

Q. When did you go there?—A. The fall of 1903.

Q. Do you remember the month?—A. I think it was October; about the 15th of the month.

Q. Prior to that time where were you employed?—A. In Durham, North Carolina, and other places.

Q. And in what branch of the company?—A. I was with the Dixie Oil Works.

Q. Your prior testimony in this case covered the period while you were with the Dixie, did it not?—A. Yes, sir.

Q. You say you came to Baltimore in October, 1903. What position did you take there?—A. Tank wagon superintendent, Fulton station.

Q. And in that position were you on the streets selling oil?—A. Yes, sir.

Q. Superintending the drivers and salesmen?—A. Yes, sir.

Q. Of the Standard Oil Company at that place?—A. Yes, sir.

Q. You came in direct contact with the trade?—A. Yes, sir.

Q. And knew the course of prices?—A. Yes, sir.

Q. From day to day?—A. Yes, sir.

Q. Your own prices and those of your competitors?—A. Yes, sir.

Q. Who were your competitors at Baltimore during that year?—A. The Crew-Levick Oil Company, the Eagle Oil Company,
11562 and the Red "C" Oil Company.

Q. I call your attention to Government Exhibit 635, showing prices at Baltimore in the year 1904, from which exhibit it appears that the Standard Oil Company's price at that place declined from 10 cents in March, 1904, gradually throughout the summer of that year, to 7 cents in September, and then gradually advanced. Can you explain that decline in price?—A. In 1904 the price declined on account of Crew-Levick Oil Company cutting prices continually, lowering the market half a cent a gallon at a time. We followed those prices down until the summer of that year.

Q. Was your price ever lower than the Crew-Levick's price during that year?—A. No, sir.

Q. How did you learn of the prices made by Crew-Levick?—A. From the daily reports of my drivers and from my personal visit to the stores, and routine business on the street.

Q. And what would you do with that information?—A. I would forward that information to the office immediately; to Mr. West, at that time the special agent.

Q. And what action would be taken upon that information as far as you observed?—A. Mr. West always insisted upon my being absolutely positive and verifying my reports as fully as possible, and usually shortly after that we would have a decline in our market.

Q. Did you lose customers to the Crew-Levick Oil Company during that year?—A. Yes, sir.

Q. Did you lose many?—A. Yes, sir; quite a few.

Q. Were you at Baltimore in the same position during the year 1905?—A. Yes, sir.

11563 Q. It appears by the same exhibit that during that year your price declined from 9½ cents in February gradually to 7½ cents in the summer of that year.—A. Yes, sir.

Q. And then advanced, although it also appears that there was a certain margin of profit at those prices. Can you explain those prices in the summer of 1905?—A. That is in 1905?

Q. 1905.—A. Yes, sir. As a general proposition the market usually declined in the summer time, the business becomes dull; the competitors are trying pretty hard to keep up their gallonage, and they are apt to cut prices, and the Crew-Levick Oil Company in 1905 did cut prices. The market was lowered from time to time.

Q. I suppose you, in your position as tank-wagon superintendent, had no direct and personal knowledge of the refinery's price of oil?—A. No, sir; I did not.

Q. Was it your observation during that summer that your price ever declined below that of your competitor?—A. No, sir.

Q. Did it always follow the competitor's price?—A. Yes, sir; always.

Q. Through that summer of 1905?—A. Through the summer; yes.

Q. Were these cut prices initiated by Crew, Levick & Company through 1904 and 1905 open reductions made by them to all the trade, or were they made to a special portion of the trade; or were they made in a secret manner of any sort?—A. My observation is that those prices were made to a portion of their trade, and I know that all tickets that I saw were billed at the open-market price, but the people were getting a lower price.

Q. How do you know that?—A. Simply because I saw the 11564 tickets, and the merchants told me so also. A merchant by the name of Samuel Labies, on Columbia avenue—I think his number is 774—had previously told me that he was buying goods at a lower price. He also had been a customer of mine and he stopped buying, as he stated, for that reason. Well, one day I was across the

street from this man's store, talking to a customer of mine, and the Crew-Levick wagon made a delivery, and I saw the amount of goods delivered; and after the Crew-Levick wagon left I went into Mr. Labies's store and in talking to him he told me he was still getting his half cent off, and I noticed figuring on the margin of a copy of the Baltimore Sun of that date, showing that the driver had sold this man at half a cent off the open-market price. I took that paper along with me and gave it to Mr. West, as positive evidence that Crew, Levick & Company were cutting prices.

Q. Have you made any search for that paper?—A. Yes, sir.

Q. Have you been able to find it?—A. No, sir.

Q. Their practice, then, was to bill the oil at the open-market price?—A. Yes, sir.

Q. And to deduct one-half cent from that price?—A. Yes, sir.

Q. At the time, or monthly? Have you any knowledge of that?—A. Well, both ways, at the time, and, say, a monthly rebate.

Q. It was stated that the Crew-Levick Oil Company made these cut prices to a portion of the trade. What portion of the trade was it that they made these prices to? From whom were those customers buying oil, mostly?—A. You mean in both years?

Q. Yes; both years.—A. In 1904 those prices were made
11565 very largely to the Standard Oil Company's customers, and later on those prices were made also to the divided trade. And in some instances to their own trade that I ran across.

Q. Who is J. M. Walker?—A. At present he is special agent of the Standard Oil Company at Baltimore.

Q. What was his position in 1905?—A. 1905—he was special agent at that time.

Q. Do you know his signature?—A. Yes, sir.

Q. Do you know his handwriting?—A. Yes, sir.

Q. Were reports made by you of cut prices made by the competitor, in the usual course of business, to Mr. Walker?—A. Yes, sir.

Q. At that time?—A. Yes, sir.

Q. I show you defendants' Exhibit 213–A, B, C, D, E, F, G, and H, and ask you whether those are letters written by Mr. Walker or under his direction upon reports made by you or others in similar position, of cut prices by Crew, Levick & Company at Baltimore throughout the year 1905?

Mr. KELLOGG. That is objected to as incompetent and hearsay evidence.

A. Yes, sir.

Q. Who is Mr. A. L. Jones, to whom these letters are directed?—A. Mr. Jones is in charge of the refined-oil department, general office.

Q. At Baltimore?—A. Yes, sir.

Q. From the letter dated February 23, 1905, to Mr. A. L. Jones, from Mr. Walker, it is stated that "Mr. Robinson informs me" (the writer) "that G. W. Meidino, 1702 Calhoun street, bought
11566 from Crew-Levick Company and refused to buy from us to-

day, giving as a reason that the Crew-Levick Company made him a price of ½ cent less than ours. He says that the following merchants stated that Crew-Levick had offered them ½ cent less than our price, but they have not left us yet." (Naming them.) "I. Ikenstein buys only a little from us, but he says that when he buys from Crew-Levick Company he gets at ½ cent less than we charge him." Is the Mr. Robinson referred to in that letter yourself?

Mr. KELLOGG. Objected to as incompetent.

A. Yes, sir.

Q. And is the report purporting to be made by you correct, as stated in this letter?

Mr. KELLOGG. Same objection, as hearsay.

A. Yes, sir.

Q. In the letter dated August 18, 1905, Mr. Walker writes to Mr. Jones that he is advised by Mr. Robinson that Crew-Levick made a delivery to G. W. Alt, Pimlico, two days ago of 90 gallons of oil and 50 gallons of gasoline at a cut price. Was that report made by you to Mr. Walker?

Mr. KELLOGG. Same objection.

A. Yes, sir.

Q. The letter also states that Mr. Robinson states that Mr. Ketcham, Arlington, advises that the Crew-Levick wagon is coming to see him. Did you so advise Mr. Walker?

Mr. KELLOGG. Same objection.

A. Yes, sir.

Q. And did the Crew-Levick Company make Mr. Ketcham
11567 a cut price?—A. Yes, sir.

Q. How much?—A. Half a cent.

Mr. CAMPBELL. I offer in evidence defendants' Exhibits 213–A to 213–H, inclusive.

Mr. KELLOGG. They are objected to as incompetent and hearsay.

Q. You stated, I believe, that you lost a number of customers to the Crew-Levick Company in 1904, on account of cut prices made by them?—A. Yes, sir.

Q. Do you know Mr. A. Thomas?—A. Yes, sir.

Q. Who is he?—A. A merchant in Baltimore.

Q. And where is his place of business?—A. Packer street.

Q. Do you remember the number?—A. I think it is four hundred and something—421 or 431—Packer and Mulberry streets, I know.

Q. Did you learn whether or not the Crew-Levick Company were making him a cut price?—A. Yes, sir.

Q. When was that?—A. That was in the early spring of 1904.

Q. Martin Rhode?—A. Yes, sir.

Q. 800 Pennsylvania avenue?—A. 1800.

Q. 1800. Was he another one who bought from the Crew-Levick Oil Company at a cut price?—A. Yes, sir.

Q. Was that a large store?—A. Yes, sir; he had three stores.

Q. Did he tell you that he would buy from you at an equal price?

Mr. KELLOGG. Same objection to all this class of testimony as hearsay.

A. Yes, sir.

Q. Thomas Shields?—A. Yes, sir.

11568 Q. Biddle street?—A. Yes, sir.

Q. Had they formerly been customers of yours?—A. Yes, sir. We lost them.

Q. And were taken from you by Crew-Levick Company?—A. Yes, sir.

Q. How much of a cut in price did they get?—A. Half a cent.

Q. T. F. Bowen, 848 West Lexington street?—A. Yes, sir.

Q. Had he formerly been a customer of yours?—A. Yes, sir.

Q. Did they get him at a cut price?—A. Yes, sir.

Q. Did they get him?—A. Yes, sir.

Q. H. B. Whaley, Argyle avenue?—A. Yes, sir.

Q. Had he been a customer of yours?—A. Yes, sir.

Q. Did they get him at a cut-price?—A. Yes, sir.

Q. J. A. Danzeglock, Pennsylvania avenue?—A. Yes, sir.

Q. Did they get him at a cut price?—A. Yes, sir.

Q. S. Lowenthal, 1403 West Baltimore street?—A. Yes, sir.

Q. Did he transfer his trade to Crew-Levick Company?—A. Yes, sir.

Q. What was he—grocer or a peddler?—A. He was a peddler.

Q. You have already testified to Thomas Shields, on Biddle street?—A. Yes, sir.

Q. C. Schroeder, Patterson avenue?—A. Yes, sir.

Q. Was he a customer of yours?—A. No, sir.

Q. He had never been a customer of yours?—A. Not to my knowledge.

Q. You solicited his trade?—A. Yes, sir.

11569 Q. And was he getting a cut off the market price?—A. Yes, sir; so he stated.

Q. Of how much?—A. Half a cent.

Q. D. E. Kontz, Mulberry and Mount streets, do you remember him?—A. Yes, sir.

Q. Had he been a customer of yours?—A. Yes, sir.

Q. And was taken from you by Crew-Levick?—A. Yes, sir.

Q. For what reason?—A. Half a cent cut in price.

Q. Mrs. Grimm, 401 Paris street; is that another case of lost trade?—A. Yes, sir.

Q. At a cut price?—A. Yes, sir.

Q. To Crew-Levick Company?—A. Yes, sir.

Q. William Reil or Peil.—A. It is Peil, I think.

Q. P-e-i-l?—A. Yes, sir.

Q. 1100 Russell street?—A. Yes, sir.

Q. Was he a customer of yours?—A. Yes, sir.

Q. Had he been buying from you for a long time?—A. Yes.

Q. An old customer?—A. Yes, many years.

Q. When did he transfer his trade?—A. I think that was in the spring of 1904, or in the summer.

Q. And to whom did he transfer it?—A. To the Crew-Levick Oil Company.

Q. For what reason?—A. Half a cent under the open market price.

Q. The Consumers Meat Company, at Pine and Fayette streets, were customers of Crew-Levick at that time?—A. Yes, sir.

Q. Were they large customers?—A. They were pretty fair customers; yes, sir.

Q. Were you able to get their business?—A. No, sir.

11570 Q. Did you attempt to get it?—A. Yes, sir.

Q. And what price were they getting from the Crew-Levick Company?—A. A cent a gallon less than our price.

Q. R. D. Bateman, 557 West Biddle street. Was he formerly a customer of yours?—A. He was a divided customer.

Q. And did he subsequently give all his trade to Crew-Levick Company?—A. Yes, sir; cut price.

Q. For what reason?—A. Selling him half a cent cheaper than our price.

Q. B. Russell, 560 Orchard street.—A. Yes, sir.

Q. Was he a customer of yours?—A. Yes, sir; a very good one.

Q. And did he leave you?—A. Yes, sir.

Q. To whom did he go?—A. Crew-Levick Oil Company; half a cent off our price.

Q. B. Gordon, 908 Druid Hill avenue.—A. Yes, sir.

Q. Was he a customer of yours?—A. Yes, sir.

Q. And did he leave you for Crew-Levick Company?—A. Yes, sir; half a cent cut in the price.

Q. N. Yagle, 100 Argyle avenue; was he a customer of Crew-Levick?—A. That is 1000 Argyle avenue.

Q. Yes. Was he a customer of Crew-Levick?—A. Yes, sir.

Q. Did you solicit his trade?—A. Yes, sir.

Q. Did you get it?—A. No, sir; he said he was buying cheaper, half a cent off our price.

Q. Becker & Company, Gilmore and Saratoga streets. Was he a customer of yours?—A. Yes, sir.

Q. Did he buy exclusively from you?—A. Yes, sir.

Q. And did Crew-Levick get part of his trade?—A. Yes, sir.

11571 Q. How?—A. By cutting the price half a cent under our price.

Q. Did he tell you that he would give you all of his trade on equal basis?—A. Yes, sir.

Q. Did you meet that cut?—A. No, sir.

Q. C. J. Carmack, 946 West Lexington street; was he a customer of yours?—A. Yes, sir.

Q. And did Crew-Levick Company get him?—A. They got part of his business. They sold him gasoline. He would not buy oil from them.

Q. On what account did they give Crew-Levick their gasoline business?—A. On account of a half a cent cut in price.

Q. S. Labies, 774 Columbia avenue. Is that the man as to whom you have already testified?—A. Yes, sir.

Q. E. W. Johnson, 700 Cumberland street. Was he a customer of yours?—A. Yes, sir.

Q. And you lost him?—A. Yes, sir.

Q. To Crew-Levick?—A. Yes, sir.

Q. On what account?—A. On account of cut price, a cent a gallon.

(A recess was here taken until 2 o'clock, at which time the direct examination was resumed.)

Q. Was E. E. Engler, 2020 Pennsylvania avenue, a grocer at Baltimore?—A. He was a paint and oil dealer, and bought of us, and stopped buying, and bought from Crew-Levick Company on account of a cut in price of half a cent a gallon.

Q. Holliday & Company, 1101 North Stricker street.—A.
11572 Yes, he was buying from us, and I lost his business to Crew-Levick Oil Company on account of cut in price of one cent a gallon, I think; I am pretty sure it was a cent.

Q. A. Jacobs, 1214 Bayard street.—A. Yes, sir; I lost his business on a cut of a half a cent.

Q. To whom did you lose it?—A. To the Crew-Levick Oil Company.

Q. And do you remember what price he paid them?—A. No, I do not recall that.

Q. J. Jacobs, 1212 Bayard street.—A. Yes, sir. Those two are father and son. One had a store across the street from the other. We lost the two of them at the same time to the Crew-Levick Oil Company on account of a cut of half a cent a gallon. Both had been buying from me previously.

Q. As a matter of fact, didn't they buy from Crew-Levick at 7 cents a gallon, and wasn't your price there at that time, in June, 1904, 8 cents a gallon?—A. I could not recall those figures.

Q. I. Ikenstein, 1352 Whatcoat street; what about him?—A. That party was buying his requirements from us, and he told me that he had an offer from Crew-Levick Oil Company to sell him, I think it was, 1,200 gallons of oil at a price, I think it was 7 cents a gallon. It was, however, a lower price than ours, and he was to take it out as he wanted it and to pay in cash at the time.

Q. Do you remember what month of the year 1904 that was?—A. That was, I think, in either August or September. I think it was in the summer or late summer.

Q. M. Brenner, 551 Mosher street.—A. Yes, sir; I lost his
11573 business to Crew-Levick Company on account of a cut in price of a half a cent a gallon.

Q. J. Mayer, 407 Dalton street.—A. M-e-y-e-r, Mr. Campbell. I lost his business to Crew-Levick Company at a cut price of half a cent a gallon.

Q. Cross Bros., 825 Columbia avenue.—A. Yes, sir. I lost their business to Crew-Levick on a cut of a half a cent a gallon.

Q. J. V. Resside, 1001 Cross street.—A. I lost him—I don't think I lost him entirely, no—to the Crew-Levick Company at a cut price of a half a cent a gallon.

Q. L. E. Woodson, 1301 South Corry street.—A. I lost his business to Crew-Levick Oil Company at a cut price of a half a cent a gallon.

Q. S. Peppersorn, 1400 West Lombard street.—A. Yes, sir; I lost his business the same way.

Q. Is that a similar case?—A. A similar case.

Q. Is the same true also as to A. Kempler, 211 North Schroeder street?—A. Yes, sir.

Q. Mr. Flexcomb, 1000 West Lexington street.—A. Yes, sir.

Q. J. Mathews, 923 Linden avenue.—A. Yes.

Q. B. Wilson, 3200 Cedar avenue.—A. Yes, sir.

Q. Ebelke, 795 Saratoga street. Were these all customers of yours whose trade was secured by Crew-Levick Company by cut prices?—A. Yes, sir.

Q. To what year have all these instances to which you have now testified referred?—A. 1904 principally.

11574 Q. And were those among the instances reported by you to your superior officers of cut prices made by Crew-Levick Company at that time?—A. Yes, sir.

Q. Generally speaking, what was the information upon which you made such reports?—A. Generally speaking, first from my own observation and the drivers, and then I always tried my very best to verify those reports by calling on the people in the stores in person and interrogating them to the best of my ability to ascertain whether they really had a cut price or not.

Mr. CAMPBELL. I will state for the record that this testimony is offered not as evidence that the cut prices testified to were actually made, but as evidence of the information upon which the Standard Oil Company acted in making the changes in price shown for the year 1904 by the Government exhibit already referred to.

Q. Now, did you also lose customers to Crew-Levick in 1905?—A. Yes, sir.

Q. And did you lose many customers?—A. Quite a few, sir.

Q. Without going into details as to the customers lost in 1905, you reported such loss of trade to your office in the same way as you have already testified to?—A. Yes, sir; always.

Cross-examination by Mr. KELLOGG:

Q. You commenced in Baltimore, you say, as general agent there, or as agent, in October, 1903?—A. Yes, sir.

Q. Who did you say your competitors were at that time?—A. The Red "C" Oil Company, the Eagle Oil Company, and the Crew-Levick Oil Company.

11575 Q. Who was running the Eagle Oil Company when it was your competitor?—A. I think Mr. Blaustein was.

Q. Mr. Blaustein?—A. Yes, sir.

Q. You understood the Eagle Oil Company to be a competitor of yours, did you?—A. Yes, sir.

Q. An independent company?—A. I competed against them right along, sir.

Q. Did you understand it to be independent of the Standard?—A. Yes, sir.

Q. You didn't know then that it was owned by the Standard?—A. No, sir.

Q. And you were the Standard's agent in charge of Baltimore?—A. No, sir.

Q. What?—A. No, sir.

Q. In charge of what?—A. In charge of part of the territory in Baltimore.

Q. Were you in charge of that territory while Mr. Blaustein was operating?—A. Part of the time; yes, sir.

Q. Were you in 1903?—A. 1903; yes, sir.

Q. And part of 1904?—A. Yes, sir.

Q. All of 1904?—A. Yes, sir.

Q. During 1903 and 1904 Blaustein was running the Eagle Oil Company, and you supposed it to be independent of the Standard Oil Company?—A. Yes, sir.

Q. You were not there in 1902?—A. No, sir.

Q. When did you learn that the Standard Oil Company owned the Eagle Oil Company?—A. I don't know, sir.

Q. You don't know?—A. No, sir.

11576 Q. Are you there now in Baltimore?—A. Yes, sir.

Q. Mr. Blaustein is not operating the Eagle Oil Company now, is he?—A. No, sir.

Q. He is operating part of the Standard's property?—A. Yes, sir.

Q. When did he quit operating the Eagle Oil Company?—A. I can't recall.

Q. Name us some customers that the Eagle Oil Company took away from you on a cut rate.—A. I can't recall any, sir.

Q. They never took any, did they?—A. Yes, sir.

Q. How do you know?—A. I know they took some business away from me at different times.

Q. Not a great deal, I guess, did they?—A. They got some of it.

Q. Not a great deal, did they?—A. Well, they didn't operate so extensively in my territory.

Q. Where was he operating?—A. He was operating all over town.

Q. Did he take away any customers of yours on a cut rate?—A. I can't recall any just now, sir.

Q. No; you can't give us the names of any customers that Blaustein got from you, can you?—A. No, sir.

Q. You didn't look that up?—A. Oh, I may have.

Q. Crew-Levick Company and the Eagle Oil Company were having a pretty lively time, weren't they?—A. Why, you might call it a general lively time.

Q. In Baltimore?—A. Yes, sir.

Q. Pretty sharp competition between the Eagle and the Crew-Levick Company?—A. I don't think it was confined between those two.

11577 Q. What?—A. I say it was not confined between those two.

Q. Well, the Red "C" was in it too, wasn't it?—A. The Red "C" was there.

Q. Now, where was Mr. Blaustein's place of business?—A. Somewhere in South Baltimore.

Q. Where was your place of business?—A. West Baltimore.

Q. You never heard that he reported to the Standard Oil Company, did you?—A. No, sir.

Q. And during all of that time he was an active competitor in Baltimore and you didn't know it belonged to the Standard Oil Company?—A. No, sir.

Q. Did they have any other secret companies operating there at that time?—A. I don't know, sir.

Q. You don't know what price the Eagle Oil Company made, do you?—A. The price that they made?

Q. Yes.—A. They made open-market prices.

Q. You don't know that they didn't cut them, do you?—A. I know they cut them some; yes, sir.

Q. They were cutting prices, too, were they?—A. At times; yes, sir.

Q. You don't know how much they were cutting the Crew-Levick Company, do you?—A. No, sir.

Mr. CAMPBELL. Do you know that they were cutting the Crew-Levick Company at all?

WITNESS. No, sir.

Q. Do you know that they were not?—A. No, sir; I didn't have anything to do with that business.

Q. Now you say you never cut a price below Crew-Levick's?—A. No, sir.

11578 Q. You are sure of that?—A. Yes, sir.

Q. How do you know that?—A. Because I kept very well posted as to Crew-Levick's business from day to day, right straight along.

Q. All the information you got is what the merchants told you?—A. Yes, sir.

Q. You don't know who commenced the cut, do you?—A. No; I can't say that I do.

Q. You don't know that the Eagle Oil Company went in there and went to cutting Crew-Levick, do you?—A. No, sir.

Q. You don't know they didn't?—A. No, sir; I don't know anything about it, sir.

Q. When did the Eagle Oil Company go out of business? Some time in 1905?—A. I really do not remember the year, Mr. Kellogg.

Q. Well, how do you remember so well about all these other matters, if you can't remember that?—A. I know it was after 1904; 1905, somewhere along there.

Q. The latter part of 1905, wasn't it?—A. I am not sure, sir.

Q. Do you remember an investigation being made in Baltimore by the Department of Commerce and Labor?—A. No, sir.

Q. You don't remember that?—A. No, sir.

Q. Never heard of it?—A. No, sir.

Q. Never knew there was such an investigation?—A. No, sir.

Q. Prior to 1904, during 1903 and 1904, did you make reports of competitive business?—A. Make reports of competitive business? How do you mean, sir?

Q. Make any reports of business that competitors were
11579 doing in your territory?—A. Yes, sir.

Q. To whom did you make those reports?—A. In 1903 and 1904?

Q. Yes.—A. Mr. West.

Q. At the office of the Standard Oil Company in Baltimore?—A. Yes, sir.

Q. Now, what was the nature of the report that you made?—A. The nature of the reports was simply giving the merchant's name and stating that he was buying from such and such a company.

Mr. CAMPBELL. And why he was buying?

WITNESS. If I could; yes.

Q. Did you report shipments of oil into your territory?—A. No, sir.

Q. You did not report them?—A. No, sir.

Q. Did you receive reports of shipments of oil into your territory?—A. No, sir.

Q. Did you receive from the office of the Standard Oil Company any statements at all, of any kind, as to oil that was shipped into your territory?—A. No, sir.

Q. Never did?—A. No, sir.

Q. Never received any such reports at all?—A. No, sir.

Q. Now, what was Mr. West's position?—A. Mr. West was special agent.

Q. How much territory did he have?—A. I really could not tell you.

Q. All of Baltimore?—A. Yes, sir; all of Baltimore.

Q. Any outside territory?—A. Yes, sir.

11580 Q. Do you know how much?—A. The State of Maryland, maybe; I am not sure how far out he went.

Q. He had the State of Maryland?—A. Yes, sir.

Q. It included Washington, didn't it?—A. Yes, sir.

Q. District of Columbia?—A. Yes, sir.

Q. Any other territory that you know of?—A. I think possibly a small portion of Virginia; I am not sure.

Q. He had part of Virginia and some of West Virginia?—A. I don't know. I only worked in Baltimore city under Mr. West, and I did not go outside of that.

Q. Was Norfolk in West's territory?—A. No, sir.

Q. It was not?—A. No, sir.

Q. Did you ever know him while he was in Richmond?—A. No, sir.

Q. If he was simply local agent in the city of Richmond, would you call it being degraded to be sent up there and made special agent of all that territory?

Mr. CAMPBELL. That is objected to as calling for the opinion of the witness.

A. Well, that is none of my business at all, what happened to Mr. West.

Q. If he simply had charge of a local station in Richmond, it was an advancement in the business to make him special agent of all that territory, wasn't it?

Mr. CAMPBELL. Same objection.

A. Mr. West was not a local agent in Richmond, as I understand it. Mr. West was special agent in Richmond.

Q. How do you know he was?—A. So I have been told. I
11581 don't know of my own knowledge.

Q. The Baltimore territory is a bigger and more important territory, isn't it, than that of the special agent of Richmond?—A. I really don't know that, sir.

Mr. MILLER. I would like to bring to the attention of counsel for the Government the matter that has been referred to of our putting into the record a statement of certain portions of the amendments to Tariff 24, I. C. C., No. 3, of the Chicago & St. Louis Traffic Association, in lieu of putting in the amendments themselves. I think Mr. Durand was to look into that.

Mr. DURAND. I have looked it over and can see no objection.

Mr. MILLER. The part we want in is that appearing upon pages 556 to 558, within the quotation marks, of the printed transcript of the record in the case of Standard Oil Company of Indiana *v.* United States of America, in the Circuit Court of Appeals for the Seventh Circuit, and also on pages 559 to 560, and the items checked on pages 564, 566, 567, 568, 571, 573, 574, and 575 of that transcript, together with the heading, which is on page 560.

Mr. KELLOGG. It is agreed that the synopsis of exhibits contained in said record above referred to may be read into this case with the same force and effect as though the original amendments to the tariff were offered herein.

The statement or synopsis above referred to is marked
11582 "Defendants' Exhibit 214," and appears among the exhibits of the defendants in this case.

11583 FRANK P. MATHEWS, called on behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Mr. MILLER:

Q. State your name, residence, and business.—A. Frank P. Mathews, Potsdam, New York, St. Lawrence County. My present

business is representing the Ford Water Company there. That is practically the only business I am doing. It is not very much at the present time.

Q. What has been your business during the last 25 years?—A. Twenty-five years ago I was in the hardware business, until 1887; from 1880 to 1887 I was in the hardware business; since then, until July 1, I have been engaged in the hardware business and in the oil business.

Q. All of the time that you have so been engaged in these kinds of business it has been at Potsdam, has it?—A. Yes, sir.

Q. Whom did you succeed in the oil business?—A. Mr. George W. Bonney.

Q. When was that?—A. That was in 1887.

Q. Were you related to Mr. Bonney?—A. I married his daughter.

Q. How long had Mr. Bonney been engaged in the oil business before 1887?—A. I think about twenty years before that; in the neighborhood of twenty years.

Q. You succeeded Mr. Bonney after his death, did you?—A. Yes, sir.

Q. Did you continue the business?—A. Yes, sir.

Q. With whom?—A. With his son and his wife. I was the
11584 active man in the business.

Q. With his son and wife you succeeded him under what name?—A. The G. W. Bonney Oil Company—a firm, not incorporated.

Q. Did you know from whom—say, for a period of two or three years, for a number of years before you with the son and wife succeeded to the business of Mr. Bonney—he procured his oil?—A. He bought it from the Standard Oil Company.

Q. And it came from what point?—A. It came from Cleveland, principally.

Q. And by what route—water or rail?—A. Well, it was more than three or four years. He used to get his oil supply by water to Ogdensburg, from Cleveland, by boat.

Q. Do you know to what district he sold or distributed oil?—A. Yes, sir; he had a field practically from Richland, New York, the northern part of the State, east to Rouses Point, on Lake Champlain.

Q. Did he at any time ship oil and distribute it in Vermont?—A. He did, some years before his death.

Q. The oil that was so sold and distributed in Vermont, was it shipped from Potsdam, or how did it reach there?—A. It was shipped from Ogdensburg.

Q. Coming there by water?—A. Yes, sir.

Q. And shipped over what railroad?—A. Over what was then the O. & L. C.—the Ogdensburg & Lake Champlain road.

Q. That is the road that runs from Ogdensburg to Norwood, and over to Rouses Point?—A. Yes, sir.

Q. Do you know what rate Mr. Bonney had on oil over the
11585 Ogdensburg & Lake Champlain road from Ogdensburg to Burlington, Vermont?

Mr. KELLOGG. That is objected to. The tariff is the best evidence as to that.

A. Yes, sir, I do.

Q. What was it?—A. 25 cents a barrel, carloads.

Q. What period of time are you speaking of, if you know, that he had that rate?—A. That was somewhere about 1880, I could not give you just the date, but it was some few years before his death, from 1880 to 1883 or 1884.

Q. Was that oil in barrels?—A. Yes, sir.

Q. What did that amount to a car, do you know?—A. $15. A carload was 60 barrels.

Q. That was the rate from Ogdensburg to Burlington?—A. Yes, sir.

Q. Did Bonney continue during his life to ship into Vermont and distribute oil in Vermont?—A. I think he let the Vermont business go, or turned it over to another man, about 1885, somewhere in that vicinity.

Q. Up to that time did he have this rate of 25 cents per barrel from Ogdensburg to Burlington?—A. I think he did.

Q. Was Mr. Bonney in business for himself, buying oil and selling it on his own account?—A. He was, yes, sir.

Q. He was a dealer in petroleum, was he?—A. Yes, sir, a jobber.

Q A jobber?—A. Yes, sir.

Q. He sold to retail stores?—A. Yes, sir.

11586 Q. How long did you, with your brother-in-law and mother-in-law, young Mr. Bonney and his mother, continue in the business?—A. About a year after Mr. Bonney's death.

Q. And what territory did you cover in your business?—A. Practically the same territory as Mr. Bonney, outside of Vermont; that had gone.

Q. You covered northern New York, from Richland to Lake Champlain?—A. Yes, sir; on the line of the O. & L. C. road. We did not go south of points on the O. & L. C. road. We did not take in Plattsburg.

Q. But you did take points on the Rome, Watertown & Ogdensburg?—A. Yes, sir.

Q. As far as Norwood?—A. From Richland north on the main line to Carthage and Lowville, around through that country on the Black River division, north of that. Practically everything north of Richland was considered Mr. Bonney's field; that is, he did business in it.

Cross-examination by Mr. KELLOGG:

Q. Mr. Mathews, you say the Bonney Oil Company bought its oil of the Standard Oil Company, from Cleveland?—A. Not the Bonney Oil Company; we did not get shipments from Cleveland.

Q. Where did you get them?—A. Olean, principally.

Q. I am talking about the G. W. Bonney Oil Company.—A. Yes.

Q. Oh, that was after you succeeded to the business?—A. Yes, sir.

11587 Q. Previous to that time he got his oil from the Standard Oil Company at Cleveland?—A. Some time previous to that, yes, sir; not at the time of his death; I don't think he got any from Cleveland for two or three years before he died.

Q. What year did he die?—A. 1887, April.

Q. Previous then to 1884 he got it from Cleveland?—A. Along in that time; from 1880, 1883, and 1884.

Q. He got it from Cleveland from the Standard Oil Company?—A. Yes, sir.

Q. Then after that he got it from Olean, from the Standard Oil Company?—A. Yes, sir; principally from Olean; Olean and Buffalo.

Q. Yes, but he bought it all from the Standard Oil Company?—A. Yes, sir.

Q. He marketed no oil except Standard Oil oil?—A. No, sir.

Q. And you did not after you went into the business?—A. No, sir.

Q. What territory did you say you had?—A. North of Richland on the Rome & Watertown road, as it was then, and east on the O. & L. C. road to Lake Champlain, Rouses Point.

Q. What kind of an arrangement did you have with the Standard Oil Company about that territory?—A. Had no arrangement, only simply to continue the business on the same lines that Mr. Bonney had done it prior to that.

Q. What was Bonney's arrangement?—A. Why, I don't think there was anything more than he bought his product and
11588 marketed it on his own account. He looked after the business in that field.

Q. Did the Standard Oil Company market any oil in his territory?—A. I don't know; I don't think so; that is, directly. They sold to jobbers, though.

Q. What?—A. They sold to jobbers, I think, who marketed in his territory—Syracuse.

Q. Do you know whether they did or did not?—A. I could not say positively, but I assume they did.

Q. Did they sell to any jobbers and market it in his territory while you were running the business?—A. They sold to the jobbers in Syracuse who did come in competition.

Q. In the whole of your territory?—A. Yes; sold wherever they saw fit.

Q. Was there much oil marketed in your territory during the time you were in business, except that which you marketed—much Standard oil?—A. It was Standard oil, I think, that was sold there by the jobbers.

Q. What did you mean by "conceded" as Bonney's field?—A. Conceded? "Considered," I said.

Q. Considered as Bonney's field.—A. Yes.

Q. Was that considered by the Standard Oil as Bonney's field?—A. Is it?

Q. Was it, I say?—A. Why, after his death I came to see the Standard Oil people, and they looked upon that field as what Mr. Bonney had always sold in or handled; that is all there was in relation to it.

Q. And they allowed you to continue the business?—A. Yes, sir.

Q. And did you do business on a commission?—A. No, sir.

11589 Q. You marketed the oil yourself?—A. Bought it and marketed it; yes, sir; on my own account or on account of the company.

Q. When did you cease marketing on your own account?—A. I think early in the year 1888.

Q. Then the Standard established its own station, did it?—A. Yes, sir.

Q. And you went out of the business?—A. Yes, sir. Well, I continued in the employ of the company.

Q. Oh, you continued in the employ of the company?—A. Yes, sir.

Q. They bought you out?—A. Yes, sir.

Q. And you became their manager?—A. Yes, sir.

Q. Do you know who got this rate of $15 a car put in?—A. Mr. Bonney.

Q. Mr. Bonney did?—A. Yes, sir.

Q. Who paid the freight on that oil to Ogdensburg?—A. Mr. Bonney.

Q. And from Ogdensburg to Potsdam and Rouses Point?—A. Mr. Bonney made his own arrangements about delivering by boat to Ogdensburg.

Q. How do you know he did?—A. I know the men who owned the boats at the time.

Q. You do?—A. Yes, sir; or did know them.

Q. You have been the agent of the Standard Oil Company there ever since 1888?—A. Well, I represented them until last July, this year.

Q. Did anybody else ship on that rate except Bonney, shipping for the Standard Oil?—A. I don't think so. I don't think

11590 anyone handled the oil in a jobbing way there. He made shipments on that rate in carload lots only.

Q. Only in carload lots?—A. In carload lots; yes.

Q. Nobody else shipped on it?—A. I don't think anyone else was in business there.

Q. There were afterwards, weren't there?—A. No, sir.

Q. Nobody in the business there except Bonney?—A. No, sir; not in a jobbing way during his lifetime.

Q. You were the agent of the Standard Oil from 1888 down to what time?—A. July, 1908.

Q. During all that time you were their agent, having how much of a field?—A. Originally the field was Richland north, and then it was changed around so that part went under Syracuse, and a year ago it was all put under Albany. There have been several changes during that period in the territory.

Q. During the last ten years that you have been there where did you get most of your oil?—A. Olean, principally.

Q. Do you know what rates you paid?—A. I do not.

Q. You had nothing to do with the shipments?—A. No, sir.

By Mr. MILLER:

Q. Did you mean to say to Mr. Kellogg that the Standard Oil Company or anyone connected with it asked you to continue in the business?—A. Asked me?

Q. Yes.—A. I don't know that they asked me to continue.

Q. You did not mean to say that in your cross-examination?—A. No, sir.

Q. Now, you spoke of seeing somebody connected with the Standard Oil Company after the death of Mr. Bonney.—A. Yes, sir.

11591 Q. Whom did you see?—A. Mr. George F. Gregory.

Q. What did you see him about? Did you go to see him at his instance?—A. How?

Q. Did you go to see him at his instance?—A. No, sir.

Q. How did you come to go to see him?—A. At the time of Mr. Bonney's death he had on purchase several tank cars of oil which had not been delivered. I was engaged in the hardware business at the time, and on the day of the funeral I telegraphed Mr. Gregory, whom I knew Mr. Bonney did business with; he was the man he did business with principally——

Q. You did that at your own instance?—A. Yes, sir—asking him if I could meet him the next day. I got a reply, yes.

Q. You did that in the interest of the Bonney estate, I suppose?—A. Yes; in the interest of the Bonney estate. I came to New York to see him, to know if the business could be continued on the same lines that it had been.

Q. And what were those lines?—A. The purchase and sale of oil in what I considered Mr. Bonney's field—the same as he had done prior to his death.

Q. What do you mean by the same as he had done?—A. By the sale and handling of oil from the refinery.

Q. Why did you go to see the Standard Oil about that?—A. I went there because he had oil purchased, which was not delivered, and I was not conversant with the details of the business, and I thought it was a proper thing to see the people with whom he had been doing business.

Q. What did you ask of them, if anything?—A. I simply wanted to know if the business could be continued on the same

11592 line; that is, to buy and market oil on account of myself or the successors of George W. Bonney.

Q. Did Bonney buy for cash?—A. He did; yes, sir.

Q. Did he get any line of credit?—A. I don't know how much line of credit he had.

Q. Did you get any line of credit?—A. No, sir; it was cash transactions; no line of credit that I ever got.

Q. Then you did not ask them for any line of credit?—A. No, sir; I did not.

Q. Now, upon cross-examination Mr. Kellogg asked you if the Standard established stations up there. Did they establish any stations up there in that territory prior to their purchase of the business from you, the G. W. Bonney Company?—A. No, sir.

Q. How did you come to sell out to the Standard? At whose instance was that? Was it your own?—A. Yes, sir.

Q. Did they drive you out of business in any way?—A. No, sir.

Q. Did they do anything to drive you out of business, so far as you know?—A. No, sir.

Q. In selling out did you get the price that you asked?—A. Yes, sir.

Q. Did you have any reason for selling out?—A. Why, the business was not established in the way I thought it should be. We had no storage, and Mrs. Bonney was getting along in years, and she felt that she did not want to invest any money in building storage for bulk oil. I felt, to do the business properly, that is was necessary
11593 that it should be done by having bulk storage instead of barreling, as we were, from tank cars. I was inclined to want to establish a storage plant, but she did not feel that she wanted to be interested in it, or put any money in it.

Q. Was that the reason for your selling out?—A. Yes, sir.

Q. Were you also engaged at that time in other business?—A. Yes, sir.

Q. What other business?—A. I was in the hardware business.

Q. In the same hardware business that you had been for many years before?—A. Yes, sir.

Q. And you continued in that business afterward?—A. I did; yes, sir. I sold out in the fall of 1889, about two years afterward; two years and a half after Mr. Bonney's death.

Q. Did the Standard put up tank storage, bulk storage tanks?—A. Yes, sir; they did.

Q. Now, Mr. Kellogg asked you upon cross-examination about competition in that field. Has there been any competition in that field while you have been up there, in the oil business, that you said ended about a year ago?—A. Yes, sir.

Q. From others than the Standard?—A. From others than the Standard?

Q. Yes.—A. Yes, sir.

Q. While you were conducting that business up there, was there?—A. Yes, sir.

By Mr. KELLOGG:

Q. Who sold oil there in competition with you—with the Standard Oil?—A. The American Oil Works.

Q. Much?—A. Yes, sir; quite considerable.

11594 Q. How long since?—A. Oh, they have been selling there for a number of years.

Q. How many years?—A. I could not say just how many years. They began selling oil there about the time of Mr. Bonney's death. I think at the time that Mr. Bonney died they had sold a carload of oil into Watertown—at the time he died or just before.

Q. Did they have tank stations in your district?—A. No, sir.

Q. Did they ever have?—A. No, sir.

Q. Do they have now?—A. No, sir.

Q. Did they sell a great deal of oil in that territory?—A. Quite a good deal; yes, sir.

Q. Barrel oil?—A. Barrel oil; yes, sir.

By Mr. MILLER:

Q. While you were there, in the sale of oil, was there any cutting of prices during the last years?—A. During the last years of the business?

Q. Yes.—A. Yes, sir.

Q. State what you know about that and how it came about.—A. You mean cutting prices to the consumer?

Q. Yes.—A. To the consumer?

Q. Yes.—A. Well, in my own town, Potsdam, the last four or five years, three or four years anyhow, the merchants had a price at retail of 14 cents a gallon, and the surrounding towns had retail prices anywhere from 10 to 12 or 13 cents, and the American Oil Works came in and sold to a man in the town a carload of oil. He was not a dealer, he had never been a dealer; he ran horse
11595 sheds, and he advertised he was going to put a market price to the consumer of 11 cents. Before he received his oil the merchants made their market 10 cents.

Q. The retail market?—A. The retail merchants, yes, sir. It stands so to-day. The retail merchants' price is 10 cents; the competitors' price is 11 cents, peddled from house to house, claiming their oil is better than the Standard's. That is the point they make in selling.

Q. What is the fact about that, about its being better?—A. I think it is a matter of opinion with the consumer.

Q. It is a matter of opinion?—A. Yes, sir. I don't think it is any better.

Q. During all that time did the Standard make any cut in its price to the retailers?—A. The 14-cent price was established when the Standard Oil tank-wagon market was 11 cents. They made a 14-cent price, and the price to the dealer dropped from 11 to 10½, 10, 9½ and 9, and they still maintain their same market.

Q. Of 14 cents?—A. Yes, sir.

Q. At the time of the cut to 10, did the Standard cut?—A. No, sir. The price to-day is just the same.

Q. Just the same?—A. Yes, sir.

Q. Then that cut was between the merchants who bought of the Standard, and the American Oil Works or the people who bought of them?—A. Yes, sir.

By Mr. KELLOGG:

Q. You said the Standard's price in Potsdam was 14 cents?—A. No, sir.

Q. Whose price was it?—A. That was the merchants' price.

11596 Q. The merchants' price was 14 cents?—A. Yes.

Q. What was the Standard's price?—A. When the merchants made their 14-cent price the Standard's price was 11 to the merchants.

Q. And the merchants made 3 cents?—A. Yes, sir.

Q. What was the price at surrounding towns around Potsdam at that time?—A. The retail price?

Q. Yes.—A. The retail price was from 10 to 14 cents—13 cents principally.

Q. 10 to 13, around there?—A. Yes, sir.

Q. Where the retail price was 10 cents, the Standard was not charging them 11, was it?—A. No, sir. The price had been—they did not make the 10-cent price until the Standard's price had declined, some years before. It is certainly four years since the merchants combined and made the 14-cent retail market, and the Standard's price had declined during that time. It may be more than that. It may be five years since it was made.

Q. That is, you mean——

Mr. MILLER. Did he finish his answer?

WITNESS. Since the tank wagon or Standard Oil price was 11 cents, it declined by degrees to 9, but the merchants did not change their price in Potsdam; but the surrounding towns did.

Q. And with oil selling at 14 cents in Potsdam you said there was somebody shipped a carload of oil in there to a man who was not a merchant?—A. Yes, sir.

Q. And he said he was going to sell it at what price?—

11597 A. 11 cents.

Q. Whereupon the merchants put the price down?—A. Yes, they put their price to 10.

Q. And the Standard put its price down to what?—A. The Standard did not change their price. They have not yet.

Q. You mean the Standard sold to them at 11, and they sold at 10?—A. No, sir; the Standard's price had declined to 9 cents.

Mr. MILLER. Before that cut?

WITNESS. Yes, sir.

Mr. MILLER. Before they had?

WITNESS. Before that, yes, sir; long ago.

Mr. MILLER. And while they were selling still at 14?

WITNESS. Yes, sir; three or four years ago.

Q. And the merchants put theirs down to 10?—A. Yes, sir.

Q. And that is all there was of the competition that you know of?—A. Well, it stands so to-day.

Q. Well, at 14 cents—during part of the time the Standard was charging 11 cents at wholesale?—A. Yes, sir. That is, when the merchants made their 14-cent price the Standard price was 11.

By Mr. MILLER:

Q. Did the Standard have anything to do with that cut of the price by the merchants?—A. No, sir.

11598 Mr. KELLOGG. In response to a request on Mr. Felton to find out if the Standard Oil Company shipped any oil from Cleveland on Baltimore & Ohio Tariff 4538, destined to Boston or Boston rate points, the Boston rate being 24 cents, Mr. Felton stated that there were no such shipments for the years 1904 and 1905.

In response to a request upon Mr. Felton to show any shipments made under a 12-cent tariff from Buffalo to Norwood, destined to Vermont points, by the Standard Oil Company, he stated that there were no such shipments during the years 1904 and 1905.

Mr. MILLER. That is the information he gets from inquiry here and inquiry at Buffalo.

Mr. KELLOGG. That is the information that he gets from an inquiry here, and inquiry at Buffalo.

(An adjournment was here taken until the morning of Monday, November 9, 1908, at 10.30 o'clock.)

11599 ROOM 515, CUSTOM-HOUSE,

New York City, Monday, November 9, 1908—10.30 a. m.

A recess was taken until 2 o'clock p. m., when the hearing was resumed before the special examiner, Hon. Franklin Ferriss, at the above place.

Present: On behalf of the petitioner, Mr. Frank B. Kellogg, Mr. Charles B. Morrison. On behalf of the defendants, Mr. John S. Miller, Mr. F. L. Crawford, Mr. Douglas Campbell, Mr. W. Cleveland Runyon.

W. M. BURTON, called on behalf of defendants, being duly sworn, testified as follows:

Direct examination by Mr. CRAWFORD:

Q. Dr. Burton, you live in Chicago, I think?—A. Yes, sir.

Q. And you are connected with the Whiting refinery, are you not?—A. Yes, sir.

Q. You are a chemist by profession, are you not?—A. Yes, sir.

Q. Where did you study before you entered upon the active practice of your profession?—A. First at Western Reserve University at Cleveland, and then at Johns Hopkins University, Baltimore.

Q. Were you graduated at the Western Reserve?—A. Yes, sir.

Q. Degree of Bachelor of Arts?—A. Yes, sir.

Q. And did you take any subsequent degree?—A. The degree of Ph. D. at Johns Hopkins.

11600 Q. That was in what year?—A. 1889.

Q. When did you first become acquainted with the Ohio crude oils produced from the Ohio fields, in an experimental way?—A. In 1887, when I was in Cleveland on a vacation, the matter was brought to my attention that a certain crude oil had been discovered in northern Ohio, and, further, that it was very refractory in refining.

Q. What do you mean by that, Doctor?—A. That it, under the ordinary methods of refining, did not yield a satisfactory product for illuminating purposes.

Q. What was the point about it that made it unsatisfactory?—A. The point was the large percentage of sulphur contained in it.

Q. You have since verified that by your own experience, have you?—A. Yes, sir.

Q. Well——A. Then when I went back to Baltimore I had arrangements made for some samples to be sent there to work on in the laboratory at Johns Hopkins, and I worked during that year and the succeeding year, in one way or another, with the idea of removing this sulphur so as to make a refinable oil.

Q. At whose instance were you doing this?—A. Entirely at my own; just as a matter of investigation.

Q. What conclusion did you then come to as to the difficulty of refining that crude oil?—A. Why, I reached the conclusion that it was a very difficult problem to remove that sulphur in a practical way; and subsequently I applied for a position with the Standard Oil Company and became acquainted with it in that way, too.

11601 Q. When was it you entered the employ of the company?—A. In June, 1889.

Q. And where were you first assigned to duty?—A. At Cleveland, Ohio, at one of the refineries there.

Q. Who was in charge of that refinery?—A. Mr. Herman Frasch.

Q. What was going on there at that time?—A. The refinery where I was assigned was an experimental plant pure and simple, which was being used for the purpose of developing a method for removing sulphur from these refractory crudes that I have already mentioned, and the plant was in charge of Mr. Frasch for that purpose.

Q. Do you know in a general way as to whether anything had been done toward getting a successful process at that time, when you went there?—A. At that time the process was in a state of development, but had not reached a point where it was entirely practical and economical.

Q. Then did you continue there in Cleveland some little time?—A. I was there just exactly a year, within a few weeks.

Q. What were you employed upon during that year in a general way?—A. I was employed upon developing this process for removing sulphur from these crudes.

Q. Was Mr. Frasch also busy at the same problem?—A. I was working under his direction there.

Q. Do you know whether others in the employ of the company were also studying the same problem?—A. Yes, they were, at other works; that is, at one other works, at any rate.

Q. Was a process finally developed which was satisfactory from a commercial standpoint?—A. Yes, sir.

11602 Q. Won't you state very briefly what the problem was, what the process was generally, what the practical difficulties of applying the process were, and how they were solved?—A. To

begin with, the crude oil occurring in northern and central Ohio contained from $\frac{3}{10}$ of 1 per cent to 1 per cent of sulphur by weight, which was several times as much sulphur as occurs in the best grades of Pennsylvania crude. When the crude was refined for making refined oil and gasoline, the sulphur carried along into these refined products, and when burned in lamps or used in other ways, produced very disagreeable effects in the room in which the lamp was burning, smudging the chimney and making a very bad wick crust. The process which was devised by Mr. Frasch for overcoming this consisted in distilling the oil in the presence of black oxide of copper, by which the copper took up the sulphur, forming sulphide of copper. This sulphide of copper was subsequently roasted back to oxide again, and used repeatedly.

Q. As orginally devised, what was the difficulty with the practical application of the process?—A. The difficulty was in securing a practical method for restoring the copper sulphide to the oxide condition.

Q. What was the necessity for that?—A. If the copper sulphide had been discarded after each proposition, it would have made the process entirely out of the question from an economical standpoint, on account of its great expense.

Q. If I understand you aright (I just want to get this clear), in the practical application of the process you used oxide of copper?—A. Yes.

11603 Q. Which absorbed the sulphur?—A. Yes.

Q. Or became chemically united with the sulphur?—A. Yes.

Q. That made the refined oil satisfactory?—A. When finished by the ordinary methods it made it satisfactory.

Q. But that if the thing stopped there, the cost was too great?—A. The cost for the copper, if the copper sulphide had to be thrown away.

Q. That is to say, to use a certain lot of oxide of copper once, for the purpose you have described, would have made the cost of the refined oil too great? Is that what you mean?—A. It would make it entirely prohibitive.

Q. So that as a practical question what was the problem?—A. In the beginning the problem was to restore the copper to an oxide condition cheaply.

Q. That is, to get rid of the sulphur?—A. To get rid of the sulphur and get back the oxygen which was in combination with the copper originally.

Q. So that you could use the same oxide over again?—A. Over again, as many times as you wished.

Q. How was that end finally accomplished?—A. That was finally secured by inventing a roasting furnace for that particular purpose.

Q. Do you know whether there were patents granted upon this process and the furnace, etc.?—A. There were.

Q. Quite a number of patents?—A. There were several patents granted, covering those features.

Q. One covering the original process?—A. One covering
11604 the original copper oxide process, one covering the roasting furnace, and one covering the still in which the application of the oxide to the oil took place.

Q. These were taken out by Mr. Frasch, were they?—A. Yes, sir.

Q. Do you know whether the ownership of those patents passed into any other hands?—A. My understanding is that they passed to the ownership of the Standard Oil Company eventually.

Q. About when was the refinery at Whiting started?—A. The refinery at Whiting was started to build in 1889. The first oil was refined there in the fall of 1890.

Q. At the time that they started to build that refinery had this process been perfected to a commercial point?—A. No; it could hardly be said that it had. The refinery was started tentatively before the method had been brought to a practical basis.

Q. While it was still somewhat in doubt as to whether it would ever be successful?—A. As to whether it would ever be successful or not.

Q. How large was that refinery as completed in 1890? Give us some idea of the size.—A. In respect to the amount of oil it could consume, or something of that kind?

Q. Yes.—A. In the fall of 1890 the charging capacity was about 10,000 barrels of crude per day.

Q. When would you say this process had reached a point where it could be used commercially?—A. It was used commercially and practically in the winter of 1890–91, and in 1891 and subsequently.

Q. Subsequent to that time were there any changes?—
11605 A. I beg pardon?

Q. Subsequent to 1890 and 1891 were there any changes or improvements in the process?—A. There were no changes in the principle of the process. The changes were only in improvements or affecting mechanical changes, mechanical improvements for handling the copper oxide.

Q. Through what period did they extend?—A. Through a period of perhaps two or three years.

Q. What was the result of those improvements in a general way?—A. The results of those improvements were to cheapen the cost of refining, cheapen the cost of handling the copper oxide in the oil so as to produce the product at the smallest possible cost for running.

Q. How about the quantity of refined oil produced?—A. The percentage yield of refined oil was also gradually increased for even a longer period than two or three years.

Q. Do you happen to recollect what the percentage of yield was when you first began to use it there practically?—A. We secured at the first periods there around 30 per cent of burning oil from the crude, and subsequently we ran as high as 45 per cent.

Q. In the development of this process to the practical point that you speak of, can you give us any idea of the expense that was involved? What was done in a general way?—A. In a general way a

large expenditure of money was incurred in experimenting before the process was brought to a stage of practical development in the period from 1888 to 1890, several hundred thousand dollars.

11606 Q. Several, how much?—A. Several hundred thousand dollars were probably expended in experiments.

Q. What about the apparatus in refineries?—Did that have to be changed in any instances?—A. Yes. For example, the Whiting apparatus was changed. After the first construction had been started there was a change made which involved considerable expense as the process was developed.

Q. Do you know anything about the Lima refinery?—A. Yes; I remember being there when certain changes were put into effect.

Q. Were those changes considerable that you speak of?—A. Considerable in point of expense, yes.

Q. Expense?—A. Yes.

Q. Will you please describe this Lima field, with reference to the sulphur-bearing qualities of the crude oil produced there; I mean geographically?—A. As the field was developed and expanded it became apparent that the crude could be graded in accordance with the percentage of sulphur it contained. It was clear that the sulphur in the crude produced in the northerly part of the State, around Toledo and in that neighborhood, was quite low as compared with that produced around Lima and in the southerly field, and when that was discovered an arbitrary imaginary line was drawn, an east and west line, dividing what was called the North Lima field from the South Lima field, according as the per cent of sulphur in the crude was greater or less.

11607 Q. In the course of the development of that process as you have described it, and in your experimental experience, did you test the crude oil from various parts of that field?—A. Oh, yes; we tested everything we could find in the way of new examples, new productions.

Q. And did you try different processes for refining it?—A. Yes.

Q. Everything you could get hold of?—A. Everything we could think of or get hold of in the way of new ideas.

Q. What conclusion did you arrive at as to the means for refining the ordinary Lima oil, I mean as to what methods were available for refining it on a commercial basis?—A. Why, after experimenting with a great many different methods and in a great many different ways, we reached the inevitable conclusion that the copper oxide process was the only one, as far as we knew or have known since, that would make a satisfactory burning oil or satisfactory gasoline from the average production of Lima oil.

Q. Was there some small part of it as to which that might not be true?—A. There was a little production around Toledo, in the extreme northerly district, which probably could be refined by some easier method, some less expensive method, some of the methods that were in vogue before that time; but that production was very small, so small as to cut very little figure.

Q. What would you have said in regard to the applicability of this Frasch process? Did that apply to the North Lima field as well as to the South Lima field, with the exception of the part you have named?—A. Oh, yes; it would apply to any of those sulphur-bearing crudes.

11608 Q. And what is the relation of the Indiana field to the Ohio field there?—A. As regards quality of crude oil, the Indiana is very similar to South Lima in point of percentage of sulphur; but it does not yield as much of refined oil in percentage or gasoline in percentage as South Lima does.

Q. Is it as refractory as the South Lima crude?—A. Just exactly, but no more so.

Q. Those three fields, the North Lima field, the South Lima field and the Indiana field, belong to one geographical formation, don't they?—A. I understand so.

Q. Is there any general term for it?—A. The term that has always been employed is the Trenton Limestone formation. We always find it in that.

Q. So that what you may say about the Ohio crude applies also generally to the Indiana crude, does it?—A. Yes; in this discussion, at any rate.

Q. Now, it is a fact, is it not, that for a considerable time before the end of 1890 there had been a large production in the Ohio field?—A. Yes, a very large production. During 1888 and 1889 the oil was produced in quite large quantities.

Q. Can you give any idea of what the total was in those years, in round figures?—A. I could not from memory. I have seen figures.

Q. It ran into many millions of barrels, did it not?—A. It ran up into the millions, yes, sir.

Q. From 1888 to 1890 somewhere from 10,000,000 to 16,000,000, would you say?—A. I should think that was about right.

11609 Q. That is the fact, according to the record that I have here. For what was that used, so far as it was used at all, at that time?—A. It was used entirely as a fuel oil.

Q. Do you happen to know what the price was, about, in those years?—A. The well price in 1888 and 1889, as I remember, looking at the record, was about 15 cents a barrel.

Q. And that continued down to when?—A. That continued until even into 1890, somewhere in 1890, and then after that it gradually went up.

Q. As a fuel oil was there any limit to the price which it could reasonably hope to go?—A. As fuel oil the price was bound to be controlled by the price of coal, bound to come in competition with coal.

Q. Is there any coal in that country?—A. Oh, there is plenty of it in Ohio.

Q. What has coal sold for in that country since 1890? What has been the highest price that you recollect?—A. The highest price that

I know of has been for contract coal, $1.35 delivered at the various factories in that neighborhood.

Q. Delivered at the factory?—A. Delivered at the factory.

Q. That means the freight being paid by the shipper?—A. The freight being paid by the shipper, yes.

Q. Is there any charge in addition to that which ought to be reckoned in, which would not be incurred in the case of fuel oil?—A. Oh, yes, there is the unloading charge and the charge for the expense connected with firing the coal and getting rid of ashes.

11610 Q. That is, generally speaking, a labor charge?—A. A labor charge entirely.

Q. What would you estimate those items to amount to per ton?—A. I would say that the unloading charge should be 5 cents a ton and the firing and getting rid of ashes from 25 to 30 cents a ton, making a total charge of about $1.65 or $1.70.

Q. Then how many barrels of crude oil as fuel are reckoned as the equivalent of a ton of that coal?—A. As a ton of that coal, three barrels and a half of oil would be a fair equivalent.

Q. And on the basis of $1.70 for a ton of coal and the attendant expense of using it, what would you say the proprietor of a factory could afford to pay per barrel for the crude oil delivered at his factory?—A. $1.70 divided by 3½. It would be about 50 cents a barrel.

Q. About 50 cents a barrel delivered at the factory?—A. Delivered at the factory.

Q. Are there any deductions that would naturally have to be made for that, before determining what part of that the producer would get?—A. All the deductions necessary incidental to transportation, the profit that the dealer might have to make, the gathering charge or anything of that kind, would have to come out of that 50 cents before the producer could realize his portion of it.

Q. Do you happen to know what the gathering charge is in that field?—A. I am told it is 20 cents.

Mr. KELLOGG. 20 cents a gallon?

WITNESS. 20 cents a barrel.

11611 Q. Gathering charge?—A. The gathering charge.

Mr. MILLER. Those figures are all per barrel, are they?

WITNESS. Yes, sir.

Q. That is the average gathering charge, isn't it, throughout the whole field?—A. That is a general gathering charge throughout the various fields; sometimes more and sometimes less, but I think that is about it.

Q. So that if you are right in assuming that the maximum price at an average which this crude oil could have hoped to reach was as fuel at the factory door, then the highest price which the producer could expect to get would be somewhat under 50 cents?—A. Yes; considerably under that, because there would be the transportation charge to pay, and the profit of the man who sold it, the dealer, the middleman.

Q. Now, in your opinion, considered simply as fuel oil, could that Lima crude ever have attained any higher price than what you have just stated?—A. Not as long as coal remains at that price.

Q. Well, coal has remained at that price?—A. Coal has remained at that price.

Q. For now some 18 years, hasn't it?—A. Yes.

Q. Or 20 years, or up to date, at the present time; that would be your opinion?—A. Yes.

(Paper marked "Defendants' Exhibit 215.")

Mr. CRAWFORD. I produce defendants' Exhibit 215, consisting of two sheets, which purports to give the prices of South Lima
11612 and North Lima crude between 1886 and 1907, and which is admitted, subject to correction. Is that right?

Mr. KELLOGG. Yes.

Mr. CRAWFORD. And I offer the same in evidence, and the same is admitted, subject to correction by either party.

Q. Dr. Burton, will you look at defendants' Exhibit 215, particularly at the second sheet. I judge from the notes at the bottom of that sheet that for a number of years there was no distinction made between the North Lima product and the South Lima product. Is that in accordance with your recollection?—A. Yes, sir.

Q. And down to about when was that the case, do you recollect?—A. The change came in 1893.

Q. And from that time on the North Lima product has borne a somewhat higher price, has it?—A. Yes; it has.

Q. Now, in a general way, what has been the course of the prices of Lima crudes from 1890 up?—A. There has been a steady and gradual increase during the entire period.

Q. What appears to be the highest price paid at any time for it?—A. The highest price I see here is in 1904, $1.36 for North Lima.

Q. And for South Lima?—A. For South Lima $1.31; Indiana $1.26, I suppose it would be.

Q. And it has already been testified in this case that the North Lima at present commands a price of $1.04 and the South Lima 99 cents, roughly around $1.00; so that from 1890, with fluctuations, the trend of prices has been steadily upward. Is that so?—A. That is so.

11613 Q. And if you are correct in your supposition as to the highest possible price which this crude could ever have commanded as fuel, it would appear that it has commanded prices from three to four times as much, would it not?—A. At the well price, yes. These are all well prices, of course, here.

Q. All well prices?—A. Three to four times as much; yes.

Q. Now, how has the reduction in the cost of manufacturing and the increase in productivity resulting from improvements in the processes affected the price of the crude, if you know?—A. I would conclude from this sheet, examining these records, that as the improvements were developed and the cost of refining cheapened, that the

price of crude had advanced. From my knowledge of the refining cost and the running cost at the refinery I should say it would go hand in hand with these prices. As one went up, the other would go down.

Q. So far as you know, have these Frasch processes been used by any other manufacturer than the Standard Oil Company or some of its subordinate companies?—A. Not that I know of.

Q. And they have all been patented, haven't they?—A. They have.

Q. So that, in spite of the fact that the Standard Oil Company owned an exclusive and patented process, which was the only successful process for refining the great bulk of this Lima oil and Indiana oil, the price which has been paid for the crude has not remained constant, but has gone steadily up?

Mr. KELLOGG. One moment. That is objected to because
11614 the question assumes a state of facts that the witness has not testified to. He has not testified that there are no other manufacturers refining that oil successfully, and the question states that to be a fact. The witness has made no such statement.

Mr. CRAWFORD. Very well. I will withdraw that question for the present. Have you any knowledge about the refining by any other manufacturers of any Lima crudes?—A. Only as regards the products they are representing on the market; that is, on the market as being represented as being made by other parties. I am not familiar with their methods of manufacture.

Q. Have you ever examined any oils made by them or sold by them?—A. Yes.

Q. By whom?—A. By the Craig Oil Company, is one; the Peerless Refining Company and the Sun Oil Company.

Q. Have you tested any of those oils?—A. Yes.

Q. Sold by them?—A. I have tested them a great many times, and all of those that I have mentioned, the oils that were sold by these refineries, put on the market as having been manufactured by them, contained a considerable percentage of sulphur, and were of a quality which we would not consider marketable or acceptable in any form.

Q. How did that sulphur disclose its presence?—A. By analysis, and by its behavior when the oil was burned in a lamp.

Q. What was that behavior?—A. The intense smudge on the chimney, the unpleasant odor in the room, and the hard crust
11615 that was formed on the wick.

Q. Have you tested oil made by any of these other refiners who are supposed to be using Lima crude, which has given satisfactory results?—A. There was one oil which I tested some years ago, sold by the Paragon Refining Company, Toledo, which was quite acceptable in the percentage of sulphur and in other respects, burning qualities. Whether it was made from Lima crude or not I don't know.

Q. Have you looked up to see what kind of Lima crude had been delivered to the Paragon Oil Company by the Standard pipe lines?—A. Yes; I have looked up those figures.

Q. What——A. The crude that was delivered to them by the pipe line was of the extreme north-country crude, North Lima crude, which, as I mentioned prior in the testimony, was very low in sulphur and could be refined by almost any of the old-time methods.

Q. Where is the Paragon refinery situated?—A. At Toledo, Ohio.

Q. Where is the particular district in which the easily refinable crude is situated that you speak of?—A. It is right outside of Toledo a little way—a few miles.

Mr. CRAWFORD. Now, will you read that question which I withdrew a few moments ago.

(The reporter read the question as follows: "So that in spite of the fact that the Standard Oil Company owned an exclusive and patented process, which was the only successful process for re-
11616 fining the great bulk of this Lima oil and Indiana oil, the price which has been paid for the crude has not remained constant, but has gone steadily up?")

Mr. KELLOGG. Same objection.

Q. Will you answer that?—A. Yes; it has.

Q. What, in your judgment, has given to these Lima and Indiana crudes the salable value which they have had at the wells over and above any prices which they could have commanded for fuel purposes only?—A. I do not see that any reason could be assigned except the fact that a successful and practical method had been devised for refining these crudes and producing salable and acceptable products from them.

Q. Do you mean the methods which you have described?—A. The copper oxide method.

Q. The Frasch method used by the Standard Oil Company refineries?—A. Yes, sir.

Q. In what refineries was that process introduced as far as you know?—A. It was first introduced into the refinery at Lima, Ohio; next in the one at Whiting, Indiana, and then at Cleveland, Ohio.

Q. To what extent and through what period of time was the Whiting refinery occupied in running Lima or Indiana crudes by this process?—A. From the fall of 1890 until the spring of 1906 they were occupied exclusively with these crudes.

Q. That is to say, all the refined oil that they produced in that time?—A. All of the refined oil that they produced was made from those sulphur bearing crude.

Q. By this general process?—A. By the copper oxide process.

11617 Q. How was it in Cleveland?—A. I could not state so definitely as regards the time, but as I remember it, going over the matter at the time, Cleveland began to operate with the copper oxide process in 1892, and operated continuously on it until 1906 or thereabouts.

Q. You say continuously; also exclusively?—A. Exclusively, yes.

Q. And used no other crude during that time?—A. Used no other crude except the crude produced from one of these three fields.

Q. What about Lima in the same way?—A. Lima began.

Q. You mean the Solar Refining Company, don't you?—A. Yes, the Solar Refining Company began to operate with the copper oxide process in 1889, and used that process exclusively and continuously until 1906 or 1907, I would not be sure which.

Q. Was all the oil that was produced used?—A. During all these years?

Q. No; from 1886 to 1890 was all the crude oil that was produced in that field used for any purpose?—A. I could not say as regards that.

Q. Do you know whether any part of it was stored?—A. Not of my own knowledge.

Q. Witnesses have testified in this case already that a large amount of that Lima crude was purchased by the Standard Oil Company in those years and stored. Now, without accepting that as the fact for the present, but assuming it to be the fact, I want you to tell
11618 us something about the method of storing crude oil and its cost. How is it stored when it is stored?—A. Any surplus of crude that is produced; that is, any amount of crude that is produced more than is needed by the various refineries is stored usually in tanks of a definite size, holding about 35,000 barrels—iron tanks.

Q. Do you happen to know whether at any time oil has been stored in the Lima field by the Standard Oil Company in such tanks?—A. Yes, it has been stored there for a great many years.

Q. Have you seen such tanks?—A. Yes.

Q. In large quantities?—A. Yes.

Q. What does it cost per barrel for that tankage, including the grounds?—A. Of course it varies somewhat, according to the price of the land and the price of iron, but 25 cents——

Mr. KELLOGG. Do you know about these things? Have you had experience?

WITNESS. Yes; I built the tanks.

Mr. KELLOGG. All right.

WITNESS. It varies in price from 24 to 30 cents. I would say from 25 to 26 cents a barrel would be a fair average.

Q. Assuming that 25 cents is a fair average cost per barrel, what is the tank worth when it ceases to be used?—A. It is worth scrap iron, and I should say from 6 to 7 cents a barrel would be a fair price.

Q. So that the net cost per barrel for tankage, then, would be on those figures around 18 cents?—A. 18 or 19 cents.

Q. If the crude oil were purchased at 15 cents, in order to determine what it cost the purchaser, it would be necessary to
11619 add that tankage cost, would it not?—A. Yes, sir.

Q. And that would increase the cost to 33 cents, then?—A. Yes.

Q. What is the fact as to whether any change takes place in crude oil when stored in tanks?—A. The first year it is stored the loss takes place quite rapidly. It probably loses two or three per cent of its volume the first year.

Q. What part of the oil is it that goes off?—A. The portion that is lost is the low-boiling point naphthas, which are the most valuable portions of the crude.

Q. That is lost by evaporation, is it?—A. Lost by evaporation. And then in subsequent years the loss is less rapid, but the character of the stock that is lost is the same.

Q. How long, to your knowledge, has oil been stored by the Standard Oil Company in the Lima or Indiana field?—A. I know, of my own knowledge, of a tank that was stored at Whiting for over ten years. I also know of a whole lot of crude that was stored at Lima for fifteen years.

Q. How considerable an amount of oil would that apply to? A great deal of it?—A. Well, I could not say what proportion of it, but I should say a very considerable proportion, at any rate. Perhaps—well, I would not give you a figure.

Q. Well, you say at any rate a large amount?—A. A large proportion of it, yes.

Q. And all of it stored for a number of years?—A. Yes.

Q. Is there any maintenance charge after the oil has been
11620 tanked like that?—A. The tanks have to be kept in repair, kept painted, the roofs kept in repair.

Q. Is there any loss by fire?—A. There is. Frequently a tank is struck by lightning, and it sets off other tanks. The loss by fire is quite an item.

Q. All those items, together with the interest on the investment, would enter into the ultimate cost of the crude oil to the purchaser, would they not?—A. The cost of the crude oil to the refiner.

Q. Now, in view of what you have just testified to, and in view of the conditions prior to the successful development of the processes you have spoken of, what would you say as to the fairness of the price of 15 cents for crude oil in 1888 and 1889?—A. Why, inasmuch as it was in those days purely valued for fuel oil only, I would say that it was all it was worth.

Q. I hand you copies of letters patent of the United States purporting to have been issued to Herman Frasch, and numbered respectively 378246, 487216, and 492551 and ask you if those are copies of the patents which you have referred to as covering the Frasch process and the principal improvements?—A. Those are the ones I referred to.

Mr. CRAWFORD. I ask to have these marked for identification.

(Papers marked "Defendants' Exhibits 216, 217, and 218" for identification.)

Q. Do you know, Doctor, how much crude oil the Standard Oil Company had stored in that field at any one time?—A. I could
11621 not tell it from memory. I looked up the figures from the printed reports, or rather from the reports that were available, but I could not tell from memory except approximately.

Q. Tell us approximately from memory and then I will ask you more particularly about it.—A. As I understand it, they have had as high as something over 20,000,000 barrels stored there.

Q. At one time?—A. Yes.

Q. What is the capacity of the Whiting refinery now, Doctor?—A. From 25,000 to 30,000 barrels of crude oil consumption per day.

Cross-examination by Mr. KELLOGG:

Q. Now, when you say it costs 24 to 26 cents a barrel to store oil, you mean if you built a tank and filled it up once with oil, and never used it for anything else except that one storage, it costs 24 or 26 cents a barrel to store it?—A. It costs from 24 to 26 cents a barrel to buy the land and build the tank.

Q. That is, to buy the land and build a tank holding 20,000 barrels of oil?—A. No; 35,000.

Q. To hold 35,000 barrels of oil, would cost about $8,000—a little over $8,000?—A. Something like that; yes.

Q. That is, that is the original cost of the tank?—A. Yes.

Q. But, of course, if you use that tankage over and over again, you do not mean that it costs 24 or 25 cents a barrel to store every barrel of oil that you put in that tank and take out?—A. That might not be the case if that was the way it was done, but that is not the way it is done.

11622 Q. If you take out the 35,000 barrels you had there last year, you have got back the cost of your plant at 24 or 25 cents a barrel, haven't you?—A. Well, let me understand you on that.

Q. In other words, if you build a tank of 35,000 barrels capacity, and you put in 35,000 barrels of oil and leave it there a month, and take it out, and charge the oil with 25 cents a barrel, you have got back the cost of your property, your entire tank, haven't you?—A. Why, no; I don't quite see it that way.

Q. Well, what does it cost you to build a tank holding 35,000 barrels?—A. The crude oil costs something before you put it into the tank.

Q. No; I am talking about the tank and the land. What does that cost?—A. It costs about 25 cents a barrel.

Q. Very well. That would be $8,750, wouldn't it?—A. Yes.

Q. At 25 cents a barrel?—A. Yes.

Q. Is that right?—A. Yes.

Q. Very well. Then if you put 35,000 barrels of oil in there and take it out in 30 days, and charge that oil with 25 cents storage, you have got back the cost of your property, haven't you?—A. If you add that price to the price of the oil; yes.

Q. Well, that is what I mean exactly.

Mr. CRAWFORD. Is that the way you do it?

WITNESS. That is not the way we do it.

Q. Well, that would pay you back.

Mr. CRAWFORD. I object to the question and answer because
11623 they are based upon a hypothesis which is contrary to the evidence.

Q. You do not mean, then, that if you put in and take out 35,000 barrels eight or ten times a year, each barrel would cost 25 cents for storage, do you?

Mr. CRAWFORD. Wait a moment. I object to the question unless it appears that this is the way business is conducted. The witness has testified that it is not the way.

Q. Please answer the question.—A. If we did it that way that would be the fact.

Q. In other words, the original cost of your plant is 25 cents a barrel of capacity?—A. That is right.

Q. That is what you mean?—A. Yes.

Q. And if you use it over and over again, you do not mean that it costs you 25 cents every time you put a barrel in there or take it out?

Mr. CRAWFORD. Same objection.

A. If we did it that way, I would not mean that.

Q. Now the great bulk of the oil used by the Standard Oil Company is not stored at all, is it?—A. The great bulk that is used is used as it is produced.

Q. Yes, sir. The actual amount of oil in storage from the Lima-Indiana field (that includes all of the Ohio and Indiana field), the largest amount ever stored was about 23,000,000 barrels, was it not?—A. That is about it, as I understand it.

Q. And it has gradually decreased each year since 1897 to the present time, has it not?—A. That is my understanding; yes, sir.

Q. So that for ten years they have been consuming more
11624 oil in the Lima-Indiana field than has been produced—the Standard Oil Company have?—A. That is the way I understand it.

Q. And the stock has gradually got down so that the last report that we have by the Geological Survey of 1906 showed about 10,000,000 barrels. I will show you the geological report. [Placing book before witness.] That you understand to be correct?—A. That is about it.

Q. The annual production of that field since 1897 has been over 20,000,000 barrels per annum, hasn't it?—A. Well, really, I could not state that without looking at the figures.

Q. Those reports are correct, I think, taken from the Geological Survey.

Mr. CRAWFORD. I think we ought to have the official documents here.

Mr. KELLOGG. Why, you people know what the Geological Survey shows, just as well as we do.

Mr. CRAWFORD. Subject to corrections.

Mr. KELLOGG. Why, certainly.

WITNESS. I presume that is correct.

Mr. MILLER. The Geological Survey does not survey the tank of oil, does it?

Mr. KELLOGG. They show the actual production and the amount stored.

Mr. MILLER. What has the Geological Survey to do with the oil business?

Mr. CRAWFORD. Isn't it a fact, Doctor, that for the last two or three years there has been a very heavy decline in the amount?

11625 WITNESS. Oh, certainly. Those figures show that, too.

Q. Why certainly; they show exactly. Then, for the last ten years there has been no storage charge involved in the use of the oil at all, has there?—A. There have been no new tanks built.

Q. Now, the evaporation from the storing of oil comes principally in the first year, doesn't it?—A. It comes in this way, that the largest portion for any one year comes in that year.

Q. The principal part of it comes the first year, doesn't it?—A. No, no.

Q. You don't pretend to say that the quantity of oil in storage decreases at the rate of two or three per cent a year?—A. No.

Q. Or anywhere near that?—A. No, not for an average.

Q. It is very much less, isn't it?—A. The facts are that in ten years' storage it will lose about ten per cent——

Q. About ten per cent?—A. Of which the first year takes two or three per cent, the remainder being distributed among the other years.

Mr. CRAWFORD. The second year more than the third, and so on; a gradual decrease in proportion?

WITNESS. A gradual decrease, as the boiling point becomes higher.

Mr. CRAWFORD. You mean ten per cent in volume?

WITNESS. Ten per cent by volume.

Q. Now, you have explained this process by which the Standard refines the North Lima and South Lima oil. Since 1900 there

11626 has been a difference in price, you say, of about 5 cents—or since what year was it?

Mr. CRAWFORD. Since 1893.

Q. Since 1893 there has been a standard difference of price between North Lima and South Lima of 5 cents a barrel?

Mr. CRAWFORD. No, he did not say 5 cents a barrel. There has been a difference.

Q. Well, what has been the difference?

Mr. CRAWFORD. This shows. [Handing Mr. Kellogg a paper.]

A. It is in the report there.

Q. From 1897 to date the difference has been 5 cents—A. That is the way I understand it.

Q. Previous to that time it was from 5 to 10 cents difference?—A. Something of that kind; yes.

Q. That is, the Standard Oil's price for the North Lima field and the South Lima field since 1897 has been uniformly 5 cents?—A. The difference between the two?

Q. Yes; that is what I mean?—A. Yes.

Q. And the Manhattan Oil Company pays 5 cents for the North Lima field above the Standard's price, doesn't it?—A. I don't know about that.

Q. You don't know about that. Well, that appears in the evidence. Now, when did the Standard commence to refine the Lima oil?—A. They commenced to experiment——

Q. No; I asked you when they commenced to refine it for commercial purposes?—A. For practical uses?

Q. Yes, sir.—A. To the best of my knowledge it was in the
11627 fall of 1889.

Q. Do you know that was the time they commenced?—A. Yes, sir.

Q. You know they did not refine any before that time?—A. For sale and commercial use, yes.

Q. What refinery did they commence in?—A. The one at Lima, Ohio.

Q. They built that refinery, then, prior to the fall of 1889?—A. Yes.

Q. When did they commence the construction of it?—A. I am not posted about that. It was before I went with the company.

Q. It was built to refine Lima oil, was it?—A. I was not in the employ of the company, so that I could not say.

Q. Well, that was the only oil there was in that neighborhood, wasn't it, the Lima oil?—A. All that I know of.

Q. You would not expect them to build a plant at Lima to refine oil from Pennsylvania, would you?—A. There might have been—pump it there possibly.

Q. You don't think that probable, do you?—A. I guess it was done at one time.

Q. Did they pump oil from Pennsylvania?—A. However, I could not make that statement, because I don't know.

Q. They did at Cleveland because that refinery was established in a very early day. Lima is right in the center of the Lima field, isn't it?—A. Yes, sir.

Q. So they must have believed that that oil was merchant-
11628 able in order to build a refinery there, didn't they?—A. When I went with the company the refinery for the refining of oil by this process was in process of construction in the spring of 1889. Prior to that time I don't know of my own knowledge what they did do.

Q. They were building a refinery at that time, were they?—A. Yes, sir.

Q. At Lima?—A. Yes.

Q. Do you know the National Refining Company?—A. I do not.

Q. You have heard of them?—A. I have heard of them, yes.

Q. You know they have a refinery at Findlay, Ohio, don't you?—A. I don't know that to be a fact.

Q. They refine Lima oil, don't they, and have for many years?—A. Maybe they do. I don't know anything about that.

Q. The National Refining Company is a concern well known now, isn't it?—A. I have heard that they exist. I have heard of them in Cleveland, I believe. I think they have a refinery in Cleveland.

Q. One at Cleveland?—A. I could not swear.

Q. One at Findlay?—A. I could not testify that they have one at Findlay. I never saw it.

Q. And one at Marietta?—A. I never was in Findlay.

Q. You don't know, then, whether they refine Lima oil or not?—A. I do not.

Q. Never heard?—A. Never heard whether they did or did not.

Q. You never examined the product of their refinery?—A. I never ran across it.

Q. Where does the Craig Oil Company refine?—A. I am
11629 not positive. My impression is the Craig refinery is at Findlay.

Q. Findlay, Ohio?—A. Yes.

Q. When did you examine the oil coming from the Craig Oil Company?—A. I have examined it frequently during the last ten years.

Q. Every year?—A. No, not as often as that; perhaps every two years.

Q. When did you last examine it?—A. I should say we have not had a sample of the Craig oil for two or three years, perhaps.

Q. Where did you get the sample?—A. I bought it from a dealer in Chicago.

Q. And you examined it?—A. Yes, sir.

Q. They sold all their product, didn't they?—A. Perhaps they did; I don't know. I know they sold some.

Q. Are they a successful refining company?—A. I could not say that they were, from the product that they produced.

Q. They make several grades of oil, don't they?—A. I never examined but one grade of their burning oil.

Q. Never but one grade? There are many grades of burning oil, are there not?—A. Yes. Usually most companies put out more than one grade.

Q. And they vary in quality?—A. They vary in quality.

Q. And what makes the variation principally?—A. The behavior in the lamp, usually; also as regards specific gravity. They make a point of that.

Q. Amount of sulphur?—A. That very seldom is discussed.
11630 Q. What was the matter with this particular oil that you examined of the Craig Company; this one quality?—A. This sample of the Craig oil, as I remember it, contained about $\frac{2}{10}$ of 1 per cent of sulphur.

Q. What is their process of refining?—A. I don't know.

Q. You don't know anything about it?—A. No, sir.

Q. Well, now, the Peerless—did you ever examine that?—A. Yes.

Q. When?—A. It is a good many years ago. I could not state positively. I should suppose it is five years ago since I have had a sample of their oil.

Q. Where was their refinery?—A. I could not tell you that even.

Q. Where did you get the sample that you bought?—A. I bought it in the open market.

Q. Where?—A. In Chicago.

Q. Of a merchant?—A. Of a grocery dealer, who said that he bought it from a Peerless wagon.

Q. He said it was Peerless oil?—A. Yes.

Q. That is all you know about it?—A. That is all I know about it.

Q. And that is all you know about the Craig?—A. Yes, sir; that is it; represented to be their product.

Q. Now, they were selling that in the market, weren't they?—A. They were.

Q. Selling oil that they produced, weren't they?—A. I don't know.

11631 Q. Do you know that the Peerless used to sell oil in the South?—A. No; I don't know that.

Q. That they sold out to the People's Oil Company of Atlanta?—A. I don't know that.

Q. And that the Standard Oil Company had to buy them out, or did buy them out, to get rid of them?—A. I am not posted on those matters.

Q. You are not posted on those matters?—A. No.

Mr. MILLER. Bought out the Peerless?

Mr. KELLOGG. Bought out the People's, that were using the Peerless.

Mr. MILLER. Bought out the Peerless. That is what your question implied.

Mr. KELLOGG. No; bought out the People's, I said.

Q. Now, the Sun Oil Company uses Lima oil, does it?—A. The product that I examined evidently came from Lima oil.

Q. Where do they have their factory?—A. I am informed it is at Toledo.

Q. Where did you get the sample of that?—A. I bought it from a dealer in Chicago.

Q. When did you examine it?—A. Oh, it must be six or eight years ago now.

Q. That was in the early days?—A. Comparatively early days.

Q. Where did you get that—did you buy it of a merchant?—A. Yes, sir.

Q. And all you know about it is what he told you?—A. Yes, sir.

Q. You did not think that was very good quality, I sup-

11632 pose?—A. No; I decidedly did not think so.

Q. They were selling that right along in the market, weren't they?—A. They apparently were doing so. The dealer was selling it.

Q. All of these concerns, these independents that you name, have been doing business, or at least some of them, for many years, haven't

they?—A. Some of them for portions of the time, for a good many years.

Q. Do you know where Galatea, Ohio, is?—A. Only by hearsay. I never have been there.

Q. The Manhattan Oil Company had a refinery there, hadn't it?—A. I understand so.

Q. The Manhattan Oil Company had a pipe line in the North Lima field, hadn't they?—A. They might have. I don't know of my own knowledge.

Q. And also in the South Lima?—A. They might have.

Q. Don't you know they did?—A. No; I don't know it.

Q. You are not very well acquainted with the pipe lines and refiners of oil then?—A. Only with those connected with the Standard Oil Company.

Q. Do you know that the Manhattan Oil Company had a refinery at Galatea up to 1899?—A. I understand they did; yes, sir.

Q. Which was operated, using Lima oil?—A. I don't know that they operated. I don't know what they did, I am sure.

Q. How did you happen to understand they did have one there?—A. Merely by seeing—more than any other way—by seeing their tank cars.

Q. They had tank cars?—A. Their tank cars used to be
11633 on the railroads and I used to see them.

Q. The Manhattan was quite a large concern, wasn't it?—A. Really I could not say about that.

Q. You don't know. Well, did you understand that they refined the Lima oil successfully?—A. I never ran across any of their product.

Q. You never did? So the only ones you ever examined were the Craig, the Peerless, and the Sun?—A. Yes, sir.

Q. And the Sun you have not examined for many years?—A. Yes.

Q. And the Peerless you have not examined for many years?—A. Yes.

Q. And the Craig you examined last two or three years ago?—A. Something like that, if I remember correctly.

Q. You don't pretend to say, then, that there is no successful means of refining Lima oil other than that that the Standard has?—A. All I pretend to say is that al the methods that we have ever tried (and we have tried all that have been brought out on patents) have proved unsuccessful, and that I never have examined any oil which I knew was made from Lima oil by a process other than the copper-oxide method which I would consider entirely satisfactory.

Q. Do you know what process the National, the Craig, the Peerless, and the Sun use?—A. I don't know what processes they used at all.

Q. You don't know anything about it?—A. No.

Q. You never heard, did you?—A. Never heard.

Q. Then you can't give any opinion on it except from the sample of the one grade of oil that you saw?—A. That is all.

Q. You don't know how many other grades they made?—A. No.

Q. Or grades of gasoline they made?—A. No, sir.

11634 Q. Did you ever examine the Texas oil?—A. Yes, sir.

Q. That has a good deal of sulphur in it, hasn't it?—A. It has a great deal in it.

Q. The Texas Oil Company and the Gulf Refining Company are independent refiners, are they not?—A. As far as I know they are.

Q. They are refining that oil, are they not—selling it?—A. I am informed they are refining oil produced in what is called the Kansas field.

Q. Have they not also for years been refining oil produced in Texas?—A. I could not say as to that.

Q. You don't know?—A. I don't know.

Q. Well, who has refined all the oil produced in Texas which has sulphur?—A. From my understanding of it, there has been very little of it refined.

Q. Very little of it?—A. Most of it sold for fuel and lubricating purposes.

Q. Don't you know that the refineries down there did refine a good deal of Texas oil and sell it in the market?—A. The Texas oil that I have examined was of such a nature that the sulphur was easily removed without any special process. The objectionable feature was one quite apart from sulphur.

Q. Why was it easily removed?—A. I don't know. It was easily treated out in sulphuric acid.

Q. Why was it more easily removed than that from Lima?—A. Because nature made it that way.

Q. That is probably so; I don't suppose man made it; but

11635 why is it? Can't you tell us the reason?—A. No; I can not.

Q. What about the midcontinent oil? That is a better grade, isn't it?—A. Which field do you refer to?

Q. I am referring to the Oklahoma, Indian Territory and Kansas?—A. That is a better grade than the so-called Texas oil, certainly.

Q. Now, you assume, or you believe, do you not, that the low price of oil in the Lima-Indiana field, in the early days of that field, was due to the fact that it was not supposed to be fit for refining?—A. That is the way the facts indicate.

Q. That is simply your opinion?—A. That is my opinion, yes.

Q. Do you believe that the Standard Oil Company would buy millions of barrels of that oil and store it, at the prices they did, if they did not believe it was fit for refining?—A. I don't know why not, if they thought they could sell it afterward for fuel purposes.

Q. Was that the cause of the low price of oil in the midcontinent field in the early period—because it was not fit for refining?—A. Really, I am not familiar with those prices down there. Of course there is always another element of a price, and that is the question of supply and demand.

Q. That is the principal element, isn't it?—A. Yes.

Q. The oil in the midcontinent field was known to be good for refining for many years before it was largely developed, wasn't it?—A. Yes.

Q. And of a better grade than the Lima-Indiana, most of it?—A. Only better in this respect, that it did not require a
11636 special process for refining.

Q. That is a point of considerable importance, isn't it?—A. The special process?

Q. Yes; that it did not require special process in refining.—A. Yes, that is quite an item.

Q. Now, coming back to this Texas oil. Is it your understanding that none of the Texas oil which contained a large amount of sulphur was refined and sold in the market?—A. No, that is not my understanding.

Q. Your understanding is that there were large amounts of it refined?—A. No; my understanding is that certain amounts were sold. How much or how little I do not know, because I was never down there and had no means of getting information.

Q. Did not the Standard Oil Company take lots of it to New York and refine it?—A. I can not tell you about that of my own knowledge.

Q. Did you ever hear of the Corsicana Refining Company?—A. I have heard of it.

Q. Did you ever hear of the Security Oil Company?—A. I have heard of it.

Q. Those companies used this cheap grade of oil—full of sulphur—didn't they?

Mr. MILLER. That is objected to as not within the field of cross-examination. Nothing of this kind was asked of this witness on direct.

A. I do not know what crudes these different works used. I would merely suppose that the Security, being located, as I under-
11637 stand it is, down near the production of this Sour Lake crude, they would use that kind of crude.

Q. You don't know what they did use?—A. I don't know of my own knowledge what they did use.

Q. Now, coming to the cost of producing this crude oil for fuel in the early days, you say the pipage charge is universally 20 cents?—A. I said my understanding is that it would average about 20 cents.

Mr. CRAWFORD. He said the gathering charge.

WITNESS. The gathering charge, not the pipe charge.

Q. That is, gathering in the pipe lines?—A. Yes; from the small lines.

Q. That is, the gathering lines are the small lines reaching the wells?—A. Yes.

Q. And the gathering systems charge substantially a uniform price of 20 cents a barrel, don't they?—A. That is my understanding.

Q. That is, the Standard Oil's gathering system?—A. That is my understanding.

Q. Do you know in that gathering charge of 20 cents a barrel the gathering pipe lines of the Standard Oil Company, many of them, make over 100 per cent per annum?—A. I am not familiar with their profits or what expense would come out of that 20 cents, I am sure.

Q. You do not pretend to say that the cost or a fair profit equals 20 cents a barrel, do you?—A. It might and it might not. I am not familiar with the pipe-line part of the business.

Q. When you are testifying to the cost of 20 cents a barrel for gathering oil in the pipe lines, you do not pretend to say
11638 that that is not more than a fair profit, do you?—A. I do not pretend to say that I know of my own knowledge that that 20 cents is a fair or an unfair price.

Q. You don't know anything about it?—A. Only from hearsay.

Q. It appears in this record that the Indiana Pipe Line Company, local division, earned, in the year 1905, from transportation of oil (that is, gathering), $2,604,921.65, and the total operating expenses were $433,016.04, leaving a net profit of $2,171,905.51, or over 90 per cent of the net assets of the company. Now, in view of that fact, you do not give it as your opinion that 20 cents a barrel should be added to the cost of that oil for gathering it, do you?—A. I have not given you that as my opinion.

Q. I so understood you, Mr. Burton.—A. I merely gave you as a fact that it was added.

Q. They might add 40 cents, and that would not make any difference in the price of the oil, would it?—A. It is clear they would have to add something, I suppose.

Q. Yes; I suppose so. So that in figuring crude oil at 15 cents a barrel for fuel, as a fair price, you add that 20 cents for collecting, don't you?—A. That was taken into consideration.

Q. Now, if the actual cost of collecting and a fair profit was about 7 or 8 cents, you would say that crude oil was worth more than 15 cents, wouldn't you, for fuel?

Mr. CRAWFORD. That is objected to as assuming matters which have not been proved in the case.

11639 Mr. KELLOGG. They have been. That is the fact. They are in evidence, right in this record.

Q. Please answer the question.—A. Assuming that to be a fact, I would say that it was.

Q. You say the Whiting refinery as originally constructed in 1889 contained a capacity of 10,000 barrels a day?—A. When they started to run oil they had a capacity of about that amount.

Mr. CRAWFORD. Did you say in 1889?

WITNESS. 1890.

Q. Well, when it was constructed, I say, in 1889.—A. The construction began in 1889. It was over a year after that before any oil was run.

Q. What time in 1889?—A. It was the beginning; in April, 1889, the ground was broken.

Q. Then they had to lay out their plans for constructing a refinery, hadn't they?—A. Yes.

Q. And they laid out their plan to construct a refinery of 10,000 barrels a day?—A. Yes.

Q. That was in the beginning of 1889, or in April, 1889?—A. Yes, sir.

Q. That refinery used Lima-Indiana oil exclusively for many years, didn't it?—A. Yes.

Q. In fact it never used any other until the midcontinent field came in, in 1896?—A. Yes, sir.

Q. So that refinery was constructed in 1889 to use the Lima-Indiana oil, wasn't it?—A. Yes.

Q. You do not think that in the beginning of 1889 the Standard Oil Company would lay out an expenditure sufficient to con-
11640 struct a large refinery unless they knew that the oil was practically used, do you?—A. I have already testified that the oil was practically refined in 1889 at Lima.

Q. So that as early as April, 1889, it was a certainty that it could be successfully used, wasn't it?—A. It probably was; at least if not a certainty, an indication so they could afford to take the chances.

Q. At that time that was one of the largest refineries in America, wasn't it?—A. When it was finished it was; during 1889 it was not.

Q. That is what I mean.

Redirect examination by Mr. CRAWFORD:

Q. What has been the fact in regard to the use of tanks for storage, as to their being filled and refilled?—A. The tanks that have been constructed for holding crude oil have been built only as the production exceeded the demand, and have been built to hold the surplus, and as long as the given field was producing as much as was needed this stored oil never was touched; so that it was held in the tanks until such times as perhaps the field might run down and the oil would be needed to keep the refineries going.

Q. Generally speaking, for how many fillings had each of these tanks been used?—A. I guess the majority of them would show only one filling.

Q. Has there ever been a case, to your knowledge, where one of these tanks was filled and refilled a number of times a year?—A. Only the tanks near a refinery, where they are working tanks.

11641 Q. But those which were used for storage in the field?—A. The common practice is to fill a tank in the field with crude and then disconnect it—take the lines away, plug them up, and leave the tank there until some time in the future.

Q. And that may be years?—A. That may be years.

Q. And in many instances was years in the Lima field?—A. Yes.

Q. Do you know the character of the oil around Findlay, Ohio, in respect to its sulphur properties?—A. It is rated as South Lima crude, I think. I would not be sure of that. At any rate, it is the character that requires a good deal of work to be done on it to get

the sulphur out. It runs 5/10ths to 6/10ths of one per cent of sulphur.

Q. Do you know where Marietta, Ohio, is?—A. Yes, sir.

Q. Isn't there a district around Marietta where the oil production is similar to that of Pennsylvania crude?—A. Yes; the so-called Macksburg field.

Q. How near is that to Marietta?—A. Just across the river; or, rather, not across the river from Marietta, but back in the country a way from Marietta.

Q. The crude oil in that field is free from this sulphur you have been testifying about, isn't it?—A. It does not require any special process for refining.

Mr. KELLOGG. That is not connected with anywhere near the Lima field, is it?

WITNESS. There is a wide gap of country between them.

Mr. MILLER. You brought Marietta into it, Mr. Kellogg.

Mr. CRAWFORD. You asked him about Marietta.

11642 R. S. LITCHFIELD, called on behalf of defendants, being duly sworn, testified as follows:

Direct examination by Mr. MILLER:

Q. Where do you live, Mr. Litchfield?—A. Independence, Kansas.

Q. Are you interested in the oil industry in Oklahoma?—A. I am.

Q. In what portion of Oklahoma are you interested?—A. My oil operations—my interests—cover every field but one, known as Bald Hill.

Q. The lands in Oklahoma on which oil is produced are Indian lands, are they not?—A. For the most part, yes; Indian and freedmen.

Q. And belong to what tribes of Indians?—A. Cherokees, principally; Creeks, some Delawares.

Q. The Osage?—A. The Osage Nation. Those are the principal ones—Osage, Cherokee, Creeks, and the Delaware are the principal ones.

Q. Will you state what the Oklahoma fields are? Name them and give their location.—A. The different fields, as designated by an oil man, are about as follows: The Shallow field, beginning with Delaware on the north, and south and a little to the east, Coodys Bluff; thence south to Alluwe; thence south to what is known as the Big Lease; and following, scattering, south until the Muskogee field is reached.

That would be a fair description of the eastern line.

11643 Q. And in the neighborhood of Alluwe and Big Lease is Chelsea?—A. Is Chelsea. I omitted Chelsea. Chelsea is in the vicinity of Alluwe.

Q. And that you would call the eastern portion of the oil fields of Oklahoma?—A. Yes, sir. The western division, the production begins in any amount at Copan on the north, and following more or

less and very nearly direct, the 96th meridian; thence south to Dewey, where is a very rich field; then to the Bartlesville field, which is the oldest, I believe, in the district; thence from Bartlesville south along the east line of the Osage Nation there is a continuous line of development upon the various lots of the Osage Nation, until Tulsa is reached, which is the very northern extremity of the Creek Nation. The fields covered along this eastern line, the large pools, rather, are known as the Dewey, Bartlesville, Ramona, and North Tulsa pool. South of Tulsa, in the general direction of south, there is some scattered production at Red Fork, in the Creek Nation, and nothing of importance until the Glenn Pool, about 18 miles below Tulsa. Then, recently, south of that, about 70 miles—75, I believe, to be exact—there is some scattered production in the Indian Territory at the south, and as far as now the present field is developed its southern boundary of any account will be designated by the Bald Hill field near Okmulgee. That comprises the western division.

Q. And is there a stretch of territory between the eastern and the western that is nonproducing?—A. There is a nonproducing strip, with here and there some very important gas wells in between.

11644 Q. And it is something over a hundred miles from Copan on the north to Glenpool on the south?—A. It is over 100 miles from the north to Glenpool, from the northern development.

Q. The very largest production has been in the Glenpool district, has it not?—A. Yes, sir.

Q. That is the largest?—A. Yes, sir; by all odds.

Q. And this northerly and southerly line about the 96th meridian, which you say is the eastern line of the Osage Nation, is the western line of the Cherokee?—A. Yes, sir.

Q. And south of the two, the Glenpool district is in the Creek?—A. Yes.

Q. What have you had to do, and what has been your experience (the extent of it, I mean), in the production of oil in this Oklahoma field? What companies are you connected with?—A. Name some of the companies, you mean?

Q. Yes.—A. In the first place——

Q. I don't know as I care so much for that, but what is the production of the enterprises that you are interested in?—A. I have oil leases individually in my own name, and I am also interested in various copartnerships and corporations.

Q. You are what is called a producer, are you?—A. Yes, sir. At one time the firm of Litchfield & Sawyer, of which I am a member, had a daily production of 15,000 barrels. That is, you understand, the aggregate production of the corporations which I represented, together with the individuals, at one time equaled approximately 15,000 barrels.

Q. And where are these wells situated?—A. They are dis-

11645 tributed in what is known as the Shallow Sand district, the Canary Pool, the Dewey field, the Bartlesville field, the Ramona Pool, and the Glen Pool.

Q. Have the Prairie Oil & Gas Company pipe lines into that territory?—A. Yes, sir.

Q. And from the north and northeast?—A. They enter from the north.

Q. Their lines go how far down on the south?—A. They now extend to the Glen Pool, with a small line to Okmulgee and Bald Hill.

Q. How far is it from Glenpool to Okmulgee?—A. About 75 miles.

Q. Are there other pipe lines that extend into those same districts?—A. Yes, sir.

Q. What are they?—A. The Texas Pipe Line Company and the Gulf Pipe Line Company.

Q. And are they competitive pipe lines and competitive oil interests with the Prairie Oil & Gas Company?—A. Are they competitive?

Q. Yes.—A. They are.

Q. Those pipe lines enter the Oklahoma fields from the south, do they?—A. Yes, sir; from the south.

Q. And run south and southeast into a system of lines running to the Gulf, do they?—A. They run approximately to the Gulf.

Q. Now, the main pipe lines of the Prairie company, the trunk lines, so called—I think they call some of the lines trunk lines——A. And laterals.

Q. ——lateral lines and gathering lines, don't they?—A. 11646 Gathering lines are lateral lines.

Q. They have some lateral lines that are more than local, haven't they?—A. Well, there are the lease lines; those are gathering lines, yes.

Q. The main trunk lines of the Prairie company, do they come down through Copan, Dewey, Bartlesville, Glenpool, down in the neighborhood of the 96th meridian—down along that line?—A. Their main trunk line follows that direction to the Glen Pool. It passes through those places.

Q. Have they a lateral line that runs from this main line easterly or southeasterly into Coodys Bluff and Alluwe district?—A. Yes, sir; a branch line.

Q. These fields, east, that you speak of, run pretty nearly into each other, don't they—Coodys Bluff, Alluwe, Big Lease, Chelsea?—A. They branch off and go to these various pools, Coodys Bluff, Alluwe, and from those main lines extend the lines of the various leases or gathering lines, as we call them.

Mr. KELLOGG. Mr. Miller, there is no dispute about this, and one map would show the whole territory and the pipe lines in three minutes.

Mr. MILLER. Did you put one in?

Mr. KELLOGG. No; we did not have one.

Mr. MILLER. We have one here, but it is incomplete. We did intend to have one made.

Mr. KELLOGG. There is no use taking hours in putting this testimony in.

Mr. MILLER. I think it would be more understandable with a map. This map is not complete.

11647 Mr. KELLOGG. Well, have one made and put it in. There isn't any dispute about it.

Q. What becomes of the oil your interests produce?—A. It is sold to the various refining companies and pipe-line companies.

Q. Does the Prairie Oil & Gas Company take part of it?—A. Part of it.

Q. And the oil refineries in the neighborhood of the oil-producing regions there take part?—A. Well, oil refineries not in the immediate section, but refineries. We are now selling to the Kansas City Oil Refining Company about approximately from 500—they agree to take 500 to a thousand barrels daily.

Q. And do you sell to other refineries?—A. Yes, sir.

Q. What other refineries do you sell to?—A. We have sold a small amount to the Chanute Refinery, Chanute, Kansas. The Chanute and the Kansas City Oil Refining Company are the only refineries to which we have sold oil.

Q. Are there other refineries in Kansas and Oklahoma, between Kansas City and the Glenn Pool field?—A. Yes, sir.

Q. At Chanute?—A. There are refineries at Paola, the Paola Refining Company; there is a good-sized refinery there. Then Humboldt has a refinery, an independent refinery. Coming down, Chanute has three, possibly four—three anyway. Cherryvale has the Uncle Sam refinery. Niotaze, Kansas, has the Sunflower Refining Company. Longton, Kansas, has a refining company, I have forgotten the name. Coffeyville, Kansas, has the National Refining Company, of which Michael Cudahy, I believe, is one of the principal parties. By the way, there is another now building at Cof-

11648 feyville. Caney, Kansas, has a refinery. Tulsa has a refinery. Sapulpa, Oklahoma, has a refinery, and Muskogee, Oklahoma, has a refinery, the Muskogee Refining Company. There are some others. Those are the principal ones, as I recall.

Q. Do you also sell to these other pipe-line companies, the Texas and the Gulf?—A. Yes, sir.

Q. And is that true of other producers in that district? Do they dispose of their oil in substantially the same way as you do?—A. Yes, sir.

Q. Do the pipe lines, the Texas and the Gulf, produce oil also?—A. Not as pipe-line companies, but their subsidiary companies do, companies that are associated with them.

Q. Their owners have companies that produce oil?—A. Yes, sir; that is the situation.

Q. That in competition with the other producers?—A. Yes, sir.

Q. How much of your production is sold to the pipe-line companies?—A. A very large proportion of it is sold to the pipe-line companies, the larger proportion now. We have been selling the

Kansas City Oil Refining Company from 500 to a thousand barrels daily. Aside from that the production goes to the Texas and the Gulf. That has been the story of the past year, I think.

Q. Did the production in Oklahoma up to 1907, inclusive, increase very rapidly?—A. Constantly.

Q. How much of your production is sold to the Prairie Oil & Gas Company?—A. During a period of twelve months it will average a little better than half, about half.

Q. Is that true generally of the production in the locality,
11649 in the districts or fields?—A. Well, I could not say. I know a large number of producers are selling oil in the same way and manner that we are.

Q. Do they also sell to the other pipe-line companies?—A. Yes.

Q. The Texas and the Gulf?—A. Yes.

Q. Do you know how the production compares in the Oklahoma fields with the capacity of the pipe lines to take the oil?—A. Yes, sir; I know that the production is considerably in excess of the capacity of all the pipe lines to handle.

Q. Do you know to what extent, if to any extent, the Prairie Oil & Gas Company stores oil in the Oklahoma oil-producing fields?—A. I do.

Q. To what extent is that done?—A. They have stored (it is a matter of record) over forty millions of barrels.

Q. Now, that oil this company buys, and constructs these iron storage tanks and puts it in there and leaves it in there; is that the way that it is done?—A. The steel tanks are filled with oil, you mean?

Q. Yes.—A. It is put in storage, yes.

Q. These are the kind of storage tanks that Dr. Burton spoke about here, made of iron or steel?—A. They are steel tanks.

Q. And what is their capacity?—A. Varying from 35,000 barrels to 55,000. In the Glen Pool they are generally 55,000-barrel tanks. Up along toward the north I believe they are 35,000-barrel tanks.

Q. Do you know how much they cost?—A. The Warren City Boiler Works, of Warren, Ohio, from whom we have bought
11650 probably fifteen or twenty, contracted all along until recently at $14,500 a tank, or $15,500 for a steel tank, erected.

Q. Erected in the field there?—A. Yes. But the producer had to do the grading and hauling, which amounted to about from $1,000 to $1,200 additional, making the cost in the Glen Pool of about from 27 to 28 cents a barrel. That is about what those cost.

Q. That would be a tank of 55 thousand?—A. That is a 55,000-barrel tank.

Q. Did the other pipe-line companies, the so-called independent pipe-line companies, buy and store oil in these iron or steel tanks in the field, too?—A. I have never known of their buying any tank from a producer.

Q. Do they maintain what are called tank farms?—A. Yes, sir.

Mr. KELLOGG. Whom do you mean by they?

Mr. MILLER. The Texas and Gulf lines. Do they maintain what are called tank farms?

A. Tank farms.

Q. Does the Prairie Oil & Gas Company purchase and take all the oil in the Oklahoma fields that their pipes will carry?

Mr. KELLOGG. If you know.

A. Why, I believe that their capacity is full constantly. I never heard of anything to the contrary, and I am of the opinion that they are taking the full capacity of their line, and have been.

Q. That they buy, do they?—A. They buy that.

11651 Q. How do they deal with respect to their own producing or their allied producing wells and the other producers of oil in the districts?—A. They conform to the regulations of the Department in regard to that, and the ruling of the Department is that pipe lines shall use no discrimination, there should be no discrimination as among producers. It is prorated from all the leases. For instance, if the production of the Delaware Pool is 10,000 barrels, and the pipe line says "We can take 3,000 barrels a day of this amount," that 3,000 barrels is prorated according to the production of each lease, and so much is taken from each lease.

Q. What is the order of business? How do you deal in that?—A. How is that done?

Q. Yes; how is it done?—A. Through the gauger. The gauger is in entire charge of it.

Q. How is it with respect to the other lines? I mean the Texas and the Gulf. What is their order of business? Do they buy regularly, or what is their order of business? Go on and state, Mr. Litchfield?—A. I can only speak from experience in that matter. The oil the Texas line purchases is purchased, as far as I know, by bids. Circular letters are sent out requesting bids for a certain amount of oil, and the price during a certain period of time, and from these bids they select, I suppose, what they want.

Q. That is, they invite competitive bids from producers of oil?—A. Yes. Two of our companies are under a contract to furnish 150,000 barrels of oil to the Texas Pipe Line Company at 30 cents a barrel.

11652 Q. Was that price arrived at by an open competitive price, or was it in pursuance of this bidding?—A. Oh, we bid on it; we offered to deliver it.

Q. Now, they send out a circular, as I understand it, to the producers, asking the producers to name a price at which they will sell so much oil?—A. Exactly.

Q. Are those replies, or bids, or tenders made by the producers open? Does each know what the other is bidding?—A. No; not in our case. Each producer is looking after his own interests and files his own bid. It would be very reasonable to suppose—I don't know what they do, but I know we make up our bid. We offered to deliver 150,000 barrels at 30 cents. That bid was accepted.

Q. You don't know what anybody else bid?—A. No one knew about our bid; we told nobody of our bid.

Q. What was the grade of the oil?—A. That was the average Glen Pool grade; it runs from 32 to 33, sometimes a little higher.

Q. You mean degrees Baumé?—A. Gravity.

Q. The Baumé test; you know what that is?—A. Yes.

Q. How does the Prairie Oil & Gas Company buy its oil?—A. How do they buy it?

Q. Yes. In the same way, by asking bids of producers?—A. No, sir.

Q. That is, asking the producers to make offers of oil?—A. Their price is fixed by their posted schedule prices, and that is what we get.

Q. For the Glen Pool grade, say 32 degrees and upward, what is their price?—A. What do they pay for it?

Q. Yes.—A. 41 cents.

11653 Q. Is that the highest price paid by anybody?—A. Yes; as far as I know.

Q. Is it higher than the competing pipe lines usually pay?—A. As far as I know, the competing pipe lines are as follows: 30 cents for the Texas and 35 cents for the Gulf Pipe Line Company, during the past six months.

Q. And that is for oil of the same grade?—A. Yes, sir; the same proposition.

Q. At the time you were selling your 150,000 barrels to one of those southern pipe lines for 30 cents, what was the Prairie paying to you for the same grade of oil to the extent that they were able to take it?—A. The Prairie were paying 41 for all they took from us, but they were able to take only a portion of the production, and in order to dispose of our production and not be forced to shut in our well we take the best thing we can get.

Q. What do you mean by shut in your wells?—A. I mean where you have got a flowing well. In the Glen Pool, if you shut a well in it ruins it absolutely. It diverts the drainage of the well. I say ruins it; it nearly does so. It stops flowing. These wells come in, flowing wells, and you connect those with your tank by a four or six inch lead line, and in some instances where they are good, big wells you have to use two or three. Now, you turn those into your tankage, 1,600-barrel wooden tanks, or earthen tanks——

Q. Those are the producers' tanks?—A. The producers' tanks. You shut those in and you kill your well. So it is better to

11654 sell your oil at 25 cents, if you can't get any more and get your money out of your oil, than to shut in your well. You have got to sell your production and sell it fast as it comes in order to make a valuable or profitable lease.

Q. Your oil very rapidly depreciates and you lose your oil——A. Certainly.

Q. —unless you market it as fast as your oil flows, or as soon as possible, at the best price you can get; is that it?—A. That is the objective point of every producer.

Q. Now, these wells are located upon leased lands belonging to the Indian tribes?—A. For the most part. There are some leases that are known as Freedman leases that you can get from the Freedmen. There was a provision by act of Congress whereby the Freedman had a right to sell a certain portion of his land. Those Freedmen had the same right to file that the Indian had. Mixed up around with these Indian lands, here and there, are Freedman lands. But for the most part they are Indian leases under the rules and regulations of the Department.

Q. And the oil wells are operated under some form of an agreement called a lease, by which the lessee is entitled to produce and dispose of the oil?—A. Operated under the regular lease, all Indian leases being issued by the Department of the Interior, which provide, among other things, for the royalty, now stipulate it.

Q. That is, that which you ordinarily call a rental is called a royalty?—A. A royalty.

Q. And what is that royalty?—A. It is now one-eighth of all of the production.

11655 Q. It is payable in money, not in oil?—A. Payable in money.

Q. How does that work?—A. He has to have ⅛ of all the oil produced at the well, but before you can get your division order accepted by the pipe line, that division order must be approved by the Secretary of the Interior and must recite the Indian's interest along with your own; otherwise the——

Q. When you sell the oil, you sell the Indian's interest too, do you?—A. What?

Q. When you sell the oil, you sell all the interest?—A. The pipe line company takes care of the Indian's interest. The producer has nothing to do with the Indian's interest himself. The pipe line sells that and sends it to the United States Indian agent. He takes that royalty out.

Q. That is one-eighth, is it?—A. That is one-eighth, yes. There were leases taken, prior to these last regulations, when it was one-tenth and one-seventh, a varying royalty, but the Secretary reserves the right to change that at his discretion at any time, or did until October a year ago, I believe, when it was definitely fixed at one-eighth.

Q. Now, when the lessee of a piece of land opens his wells as between adjoining lessees owning abutting lands, one abutting on the other, is there any fixed custom pursued with regard to the location of their wells on their own tract with respect to the boundary line of the other party? How is that done?—A. Yes, there is an unwritten law among producers that wells should be at certain distances.

Q. From the boundary line?—A. 200 feet from the line
11656 in, and they will run about 400 feet apart, 400 to 410. In a 40-acre piece there are 13 hundred and some odd feet. You

would put in wells, and your competitor, I mean the owner of the adjoining lease——

Q. Your neighbor?—A. Your neighbor—will offset those; that is the custom—will offset those wells, and that would give each lessor equal rights. That is the custom in vogue.

Q. 200 feet or thereabouts from the division line there will be a series of these holes?—A. Along there; yes.

Q. Along about that distance from the boundary line on one side and also on the other?—A. Yes. I believe there is a regulation of the Department in regard to that distance which regulates it now; you have to stay away 150 feet, I think, under the regulations now.

Q. You can not get within 150 feet of the line?—A. Once in a while a fellow used to come right up close, and now the Department has fixed that. My recollection is 150 feet. The usual distance is 200 feet, 400 feet between lines.

Q. Will a well 200 feet from the line drain the oil from the other lessee?—A. It will unless it is offset.

Q. It will unless it is offset?—A. Yes.

Q. In order to get his own oil on his territory what does he do?—A. Offsets.

Q. What does "offset" mean?—A. Drill a well opposite. That is a requirement of your lease, that you will offset by wells.

Q. That is the requirement of the lease that you get?—A. Yes. And the Department inspector, if you don't do it—if you
11657 don't offset the well, the Indian can complain to the Department and you will be ordered to drill it whether you want to or not.

Q. Then, when a producer takes a lease of a piece of ground he must put his wells along this line as rapidly as his neighbor does; is that it?—A. Yes, sir; that is it exactly.

Q. He is required to do that?—A. Yes, sir.

Q. In order that the Indian——A. In order that his interests shall be protected.

Q. In order that the Indian lessor, whose property he gets, may get his royalty as well as the other fellow?—A. Exactly. If he don't he will be robbed, that is all.

Q. You may state, Mr. Litchfield, how you, and, so far as you know, other producers in the Oklahoma field have been treated by the Prairie Oil & Gas Company.

Mr. KELLOGG. That is objected to as immaterial.

A. State how the producers, as far as I know——

Q. Yes; yourself and other producers have been treated in your dealings with the Prairie Oil & Gas Company.

Mr. KELLOGG. Tell the facts.

Q. Yes; that is what I want. State the facts.

Mr. KELLOGG. That is objected to as calling for a conclusion.

A. As far as the companies in which we are represented are concerned, we have always felt that we have received our share of their

capacity to run the oil, and we have never made any complaint of any importance at the office. The only complaint we possibly could have was that their facilities were not sufficiently large to
11658 take more production; but as far as their treatment, their payment, and their usage, it has been of a high order.

Q. To the extent of the number of pipes that they have gotten into the Oklahoma district, the capacity of those pipes, and their ability to take oil in them, they have performed up to the limit, have they?—A. No other field in the United States was ever so rapidly and so quickly taken care of by any pipe line as that.

Q. What about the price? Have they paid for the oil there?—A. Fair in its prices.

Q. What about its fairness considering the amount of production?—A. You mean at the present time?

Q. Yes.—A. I consider it a very fair price.

Q. Is it as large as any other purchaser has ever offered?—A. At the present time it exceeds the prices paid by the Gulf Pipe Line Company, and exceeds the prices paid by the Texas Pipe Line Company, and as far as I know is equivalent to the prices paid by the refineries that are buying. In other words, 41 cents is the high price. It is the market price. It is what the Secretary of the Interior calls the market price. If you sell your oil to the Texas Company or the Gulf Pipe Line Company at 30 cents or 33 cents, the Secretary of the Interior makes you pay the royalty at the rate of 41 cents just the same. You get it both ways. But the producers do that in order to sell their oil. You have got to pay the Indian 41 cents; in fact, the Indian agent demands that.

Q. That is, you have got to pay the Indian on the basis of the 41-cent price?—A. Yes.

Q. The highest price you can get?—A. The Department
11659 holds that is the market price, 41 cents.

Q. Although you sell your oil to the Texas or the Gulf pipe line for 30 cents, you still have to pay the Indian's share at 41 cents?—A. Yes, sir.

Q. Well, you do sell and other producers do sell to the Texas and Gulf pipe lines, do they?—A. Yes, sir.

Q. At these very much lower prices?—A. Yes, sir. That nets you about 25 cents.

Q. That is because there is more production there than——A. Than can be taken care of.

Q. Than can be taken care of?—A. Yes, sir.

Q. And in order to help take care of the production there the Prairie Oil & Gas Company has built down into these fields and has a very large number of these storage tanks into which they have put the oil that they have purchased?—A. Yes, sir.

Q. Storage tanks to the number of two thousand or more?—A. I should say two thousand; it may be a little under; but I noticed three or four months ago at Bartlesville a tank numbered a thousand odd;

and below that, in the Ramona Pool and the Glen Pool, there must be a thousand tanks. They have purchased from individual operators. They have bought an enormous number, you know, from the producers.

Q. Now, in respect to the drilling of wells. If a company has a lease adjoining yours, you are not compelled to open your wells until such time as some neighbor has put down wells, drilled wells, near your line?—A. That is true.

Q. What is the size of the tract of ground that the lease covers—40 acres?—A. What sized tract?

11660 Q. Yes.—A. Oh, they vary from 20 acres to 40 or 60 or 80 or 100 or 120. They rarely exceed 160. That is, if you have a larger acreage, you have got two leases. I should say those leases would average 80 to 100 acres.

Q. A small producer can take a smaller lease, can he?—A. Oh, yes.

Q. What does it depend upon—what the Indian agent and the producer want? Is that the way it is determined how many acres you shall take?—A. Oh, no; it is just what is available—whatever they buy, whatever they can buy from the Indian or buy at public sale.

Q. Buy from somebody else who has a lease?—A. Minors would lease through their guardian. Those lands are advertised for sale. In that way you can get a 10-acre tract.

Q. If you had 40 acres or 80 acres and somebody came along and took the 40 or 80 on each side of you and put down wells, that compels you to put down wells on yours, does it?—A. It certainly does.

Q. Just as many as they put down?—A. Yes, sir.

Q. You are bound by the terms of your lease to do that, are you?—A. Yes, sir. You have got to protect the interest of your lease.

Q. And then, when you have got hold of your oil and put down your wells, you have to sell your oil as fast as you can?—A. Yes, sir.

Q. And at whatever price you can get?—A. Yes.

Q. And all that tends to overproduction and the bringing

11661 down of the price of oil, does it?—A. Yes, sir.

Q. Is 41 cents a barrel a profitable price for producers?—A. It has been to me mighty profitable.

Q. And if it has been for you, it has been for other dealers or producers?—A. I know of a good many.

(An adjournment was here taken until the morning of Tuesday, November 10, 1908, at 10.30 a. m.)

11662 ROOM 515, CUSTOM-HOUSE, NEW YORK CITY,
Tuesday, November 10, 1908, 10.30 a. m.

The hearing was resumed before the special examiner, Hon. Franklin Ferriss, at the above time and place.

Present: On behalf of the petitioner, Mr. Frank B. Kellogg, Mr. Charles B. Morrison. On behalf of the defendants, Mr. John S. Miller, Mr. W. Cleveland Runyon.

R. S. LITCHFIELD, recalled on behalf of the defendants, and his direct examination resumed, as follows:

By Mr. MILLER:

Q. Mr. Litchfield, how long have you been engaged in the oil business in Oklahoma and familiar with the actual conditions there in the producing, marketing, and handling of the oil?—A. About four years.

Q. Does that cover substantially the period of time of the oil production in those fields?—A. It covers the time which represents the large production.

Q. Now, referring to the matter of the building of storage tanks by the Prairie Oil & Gas Company and the storing of oil in those tanks, what is the fact as to whether the oil that goes into the tanks goes in for limited periods of time and then is drawn off and then the tanks refilled with other oil?—A. You ask for the facts now?

Q. Yes.—A. I can only tell you from observation and
11663 general knowledge of the situation—my understanding of the matter—and that is that these steel tanks are built either by the Prairie Oil & Gas Company or by the producers themselves for the purpose of taking the oil out of the ground and thereby running the oil from the lease and give relief to the field. As far as I know, those tanks when filled with oil are disconnected from all lines, are properly fire banked, and the oil remains as storage oil, as far as I know.

Q. And then the oil that is sent through the pipe lines to the markets or refineries is put directly from the wells into the pipe lines?—A. It goes from the wells into the wooden storage tank on the lease—a receptacle tank—and from those tanks it is pumped directly into the pipe line.

Q. But those tanks are not the tanks to which I referred in my question, or to which you testified yesterday as to the number that you had seen of the Prairie Oil & Gas Company?—A. No, sir; those are wooden tanks—250, 500, and 1,600 barrels capacity.

Q. And those are near the wells and on the lands of the producer?—A. They are situated upon the leases in proximity to the wells usually.

Q. And are put there by the producer usually?—A. Yes, sir.

Q. But these tanks that hold from 35,000 to 55,000 barrels, do the producers who sell their oil to the pipe lines or refineries have tanks of that kind—these large iron or steel tanks, holding from 35,000 to 55,000 barrels?—A. The producers have very often erected
11664 steel tanks of that character and afterwards sold them to the Prairie Oil & Gas Company.

Q. Of the producers in those fields, are a good many of them what you call small producers?—A. They are.

Q. They vary, I suppose, in the extent of their production or the amount of business and the amount of capital in their business?—A. Yes, sir.

Q. Just as you said the amount of the land leased varied in acreage?—A. Yes, sir; it varied.

Q. Then these storage tanks that are so used, you say the oil is kept in them so long as there is fresh oil that is coming from the wells?—A. That is the custom and practice.

Q. When, then, is the supply of oil in the storage tanks drawn upon?—A. From what I know of the history of tank farming, the storage is drawn upon whenever the production of the field direct is insufficient to fill the pipe lines covering the various fields.

Q. Then, in a field, when the supply begins to diminish, when the oil wells begin to run out or run down in their supply, when the production of the field begins to diminish, then they draw upon the storage tanks?—A. Yes, sir.

Q. Then the effect of putting oil into these storage tanks and holding it and then drawing it out as the supply diminishes in the field tends to equalize the supply that comes from that field to the refineries. You understand me?—A. Yes, sir.

Q. Now, when the supply of oil that is put into those
11665 storage tanks and kept there is drawn out, what becomes of the storage tanks?—A. They remain in their place, as far as I have ever known.

Q. What is the diameter of a storage tank of 35,000 barrels capacity?—A. Well, the tanks are placed on sites supposed to be at least 400 feet square, and that gives sufficient room for an earthen bank as fire protection and driving space around. I can't give you the exact dimensions. They are very large tanks.

Q. Are they moved without being taken to pieces or cut down?—A. They are taken down in sections, in pieces, built that way.

Q. Then, to move a tank you would cut it down or take it to pieces?—A. Knock it down, take it to pieces.

Q. Where the use of tanks so placed has ended, have you known of any of them being disposed of?—A. Read the question, please.

Q. Have you known of tanks having been disposed of after they have become no longer of use at the place where they were located?—A. I have no knowledge of any such; no, sir.

Q. Now, when did the construction of storage tanks by the Prairie Oil & Gas Company commence in the Oklahoma field?—A. By the Prairie Oil & Gas, or by the producers?

Q. By the Prairie Oil & Gas?—A. Oh, that dates back in Oklahoma—let us see—near the Oklahoma line the first farm that I recall within four years is the Caney tank farm.

Q. That is in northern Oklahoma?—A. No; that is about three or four miles north of the Oklahoma line, in Kansas.

11666 Q. Oh, that is in Kansas?—A. Yes.

Q. Caney?—A. Yes, sir. The next farm was at Copan, Oklahoma. That is along the northern line of Oklahoma.

Mr. KELLOGG. What date did you say?

Q. What date did you say, the Caney plant——A. I can't be exact, but that began soon after I became interested in the oil business, which covers a period of four years, approximately.

Mr. KELLOGG. About 1904?

WITNESS. 1904; yes.

Q. Did you say that the building of these storage tanks and the acquisition of oil and storing it has been over the period of the last four years?—A. That is my recollection of it, that it has covered a period of four years. During that period these tanks have been built, I would say.

Q. Now, according to your experience and knowledge, what would have been the result if the Prairie Oil & Gas Company had not so purchased and taken the supply of oil that they stored? I mean, what is the effect upon the producer?

Mr. KELLOGG. That is objected to as calling for a conclusion and not for a statement of fact.

A. What would have been the effect on the producer?

Q. On the producer, if the Prairie Oil & Gas had taken no more oil than their pipes would have carried away?—A. There would have been, approximately, 40,000,000 barrels less of oil run than there has been, and the producers would have received proportionately so much less money. The building of steel tanks, either by the
11667 producer or the pipe line company, and filling them with oil amounts to running the production from the lease. It makes no difference whether it goes into the pipe line or the storage tank.

Q. What proportion or percentage of the oil stored in tanks is in the tanks of the producers?—A. Oh, that is a very small amount.

Q. Not every producer has a storage tank to store oil, has he?—A. Very few, very few. They are expensive.

Q. What percentage of the oil stored there in storage tanks do you think belongs to the producer?—A. Oh, I could only estimate it. It is very small. They dispose of those tanks as rapidly as they are able to do so to the Prairie Oil & Gas Company.

Q. They would rather the Prairie Oil & Gas Company would have the investment in the tanks and in the oil than have it themselves?

Mr. KELLOGG. That is objected to.

A. Certainly. There has been an implied understanding between the producers and the Prairie Oil & Gas Company—with some at least—that if the producer will build those tanks, furnishing, of course, the location, the site, upon his own lease, furnish them with the proper and legal tank sites, and the transfer of the tanks, that they would purchase them at the cost of the tank and the oil therein, which has been done in a great many instances.

Q. To your knowledge have the producers ever had any trouble in having their tanks and wells connected up with the gathering lines of the Prairie Oil & Gas Company?—A. The connecting of tanks?

11668 Q. Yes.—A. My experience is that the connections have been made promptly.

Q. Did you have any experience yourself with connecting up with another company than the Prairie, and later a disconnection of your tanks or wells with that company?—A. They would not connect wells. They would connect storage tanks.

Q. Yes.—A. Yes. I had something to do with it.

Q. What was the transaction? Have you one in mind?—A. With the Gulf Pipe Line, the Texas Pipe Line. They follow the same course that the Prairie Oil & Gas Company do exactly, connecting your tank.

Q. Did you have one case of disconnecting with the Prairie pipes and connecting with another company, the Standard Asphalt & Rubber Company?—A. Oh, yes; I know what you mean now.

Q. Yes.—A. Yes, sir; the Canary Oil Company, of which I am president—we were unable to market our production in a satisfactory manner. That is, the Prairie did not take all of our oil, only a portion of it, and we entered into a contract with the Standard Asphalt & Rubber Company to take a thousand barrels a day approximately, and they laid the lines to the leases of the Canary Oil Company. That is in Oklahoma, over the Oklahoma line; and for a considerable period of time we sold a large amount of oil to the Standard Asphalt & Rubber Company. That is what you want?

Q. Yes. Well, did you later again connect up with the Prairie?—A. Yes, sir. The Standard Asphalt & Rubber Company had
11669 three 55,000-barrel tanks, and we assisted in filing those tanks, and when those were filled they notified us that they did not care to take any more oil, and canceled the contract. Thereupon we requested the Prairie to re-lay their lines upon those leases, which they immediately did, and we are now selling to the Prairie from those leases.

Q. Did you ever experience or observe any interference or difficulty or objection on the part of the Prairie Oil & Gas Company with your selling of oil, or your connecting up your tanks with any other competing company?—A. Never have. At the time that we made this change to the Standard Asphalt & Rubber Company, I, in connection with another officer of the company, called upon the Prairie Oil & Gas Company with reference to this, and was informed that when the other company's lines were laid upon the lease they would take up their line, but that whenever the other company's lines were removed they would re-lay their line, stating that they had use for all the pipe that they had and did not care to leave any pipe idle through the field. That was the statement made, and they fulfilled that statement to the letter.

Q. The Standard Asphalt & Rubber Company is what is known as an independent company, isn't it, as compared with the——A. Well, they are independent; yes, sir; as far as I know.

Q. They are not connected with the Prairie Oil & Gas Company or with the Standard Oil Company?—A. Not that I know of, in any way.

Q. Now, the independent companies that you have mentioned, Mr. Litchfield, are all in active operation out there, are they?—
11670 A. The independent refiners?

Q. Yes.—A. As far as I know, sir.

Q. Now, did those companies come into the field there before or after the Prairie Oil & Gas Company?—A. You mean the independent refiners?

Q. Yes.—A. My recollection is they have followed the advent of the pipe line, with a few exceptions. I believe there are one or two small refineries that were in existence before the main pipe line of the Prairie entered the mid-continent field.

Q. Then they have most of them opened up their business and continued their business, and they are still operating actively, going in there most of them since the Prairie Oil & Gas Company went in there with their pipe lines?—A. The most of them.

Q. Do any of these independent companies have tank cars?—A. My experience is only with one, the Kansas City Oil Refining Company. They have quite a large number of cars, tank cars, which we fill with oil from the Sanders Oil Company's lease on the Missouri Pacific Railway at Delaware, Oklahoma.

Q. Do you know of these independent oil companies selling oil from tank wagons?—A. The Uncle Sam wagons passed through the streets of my home, and I have seen the Paola Refining Company wagons selling their products.

Q. Selling refined oil, you mean? Those tank wagons, what do they sell?—A. They sell gasoline and oil. I don't know what their schedules of deliveries are. I think they vary at times. I know gasoline positively is sold.

11671 Q. You stated, I think, Mr. Litchfield, that when you made your contract with the Standard Asphalt Company, the Prairie Oil & Gas Company did not take all your production?—A. No, sir.

Q. What was the fact about their taking all of the production that they had pipe line capacity for?—A. That is the condition.

Q. And storage capacity for?—A. That is the condition.

Q. Did you ever have experience of having a tract of oil lands hedged in by an owner on each side, a pipe-line company, or the affiliated company of a pipe-line company?—A. I don't understand what you mean—hedged in. We have had—I have had——

Q. Bounded.—A. I have had a very important experience with reference to one lease, where the adjoining producers were able to market all their oil and I was not.

Q. What was the result upon your——A. That lease to-day, known as the Zeke Moore lease, consisting of 120 acres, has upon it twenty-three wells, and the total production of that 120 acres is less than 200 barrels a day to-day, and it was one of the best leases originally in the Glenn Pool. It was valued, estimated to be worth $250,000, and I would not consider it worth to-day to exceed $100,000, if it is that.

Q. What happened? Go on and state the circumstances that happened, as the result of which there was this loss of value.—A. What brought about that result was the fact that the Producers Oil Company, which is recognized as the producing department of the
11672 Texas Pipe Line Company, purchased or owned—partly purchased and partly leased—property upon the east and south, and drilled wells along those lines, east and south, 200 feet apart, which is double the ordinary distance, and shot those wells heavily, and ran all of their production into their own tankage, while we were unable to run our production. The Prairie Oil & Gas Company could not take it, did not take it. So it drained what we call the flush oil, all of the rock-pressure oil. We were obliged to shut in our wells, and they paraffined up, and it will take $20,000, cost $20,000 to $25,000, to put those wells into active operation again.

Q. You said that your neighbor sunk wells 200 feet apart, and that was double the distance. Do you mean double or half the ordinary distance?—A. I meant half the distance.

Q. The ordinary distance would be 400 feet?—A. Approximately 400 feet. These were 200 feet approximately.

Q. And was the result of that to draw the oil from your lease?—A. Yes, sir.

Q. And did you make any effort to dispose of your own oil?—A. Every effort possible.

Q. This pipe line company did not take any of your own oil at that time?—A. No, sir.

Q. Did you ever have any experience, or know of any such transaction as that, on the part of the Prairie Oil & Gas Company?—A. Well, I can only speak from experience with the Oregon Oil Company lease at Delaware. The Prairie had an adjoining lease, and it is in valuable territory, and we made a verbal agreement with them to drill an equal number of wells 400 feet apart, with Mr. Whetsell,
11673 who was the manager of the producing department, and he told us—told me personally that they would not drill any more wells than we did. That is the fact.

Q. And did he live up to what he told you personally?—A. They did; yes, sir.

Q. Were you able to dispose of your pro rata of your oil, the same amount as theirs?—A. Our lease man says so to us, that is all I know about it.

Q. Mr. Litchfield, will you give the grades of Oklahoma oil with reference to the different fields. Do they differ in their grades of oil or degrees or weight?—A. Yes, there is a variation.

Q. With respect to the different fields, what are the grades of Oklahoma oil?—A. Well, it varies, from my own knowledge—it varies from 26 to 34 degrees gravity.

Q. Where and in what fields are these different oils obtained? Is there a distinction? Do you get a better oil in one field, for instance, the Glenn Pool field? How does that oil rank?—A. That runs very

good. That is considered high grade. Through the northern part of the field, and in some places in the Shallow field, the oil is 30, running down as low as 26 in some places, and 27.

Q. In the Glenn Pool field, within what limits does it run?—A. That is pretty generally up to 32 gravity.

Q. And runs up above that to——A. I believe some tests show 34. That is fresh oil from the well, when it is fresh.

Q. How is it with the fields north of there, north of the Glenn Pool?—A. Well, that varies. At the Canary lease, for
11674 instance, we sell oil once a week, every Friday morning. The schedule of those sales shows very often three different gravities from the same lease, at varying prices.

Q. That is, the oil on the same lease sometimes will vary, showing three different gravities?—A. Yes, sir.

Q. Are the gravities of the oil all tested before it is sold or disposed of?—A. Yes.

Q. Each lot of oil is tested at the time or before it is sold?—A. It is, and the gravity given upon the run ticket.

Q. How does the gravity or quality of the Glenn Pool field compare with the Texas field below it, south of it, if you know?—A. The Texas State field you mean?

Q. Yes.—A. That is a low-grade oil, fuel oil.

Q. Lower grade than the Glenn Pool?—A. Very much.

Q. The different grades of oil, say, running from 26 degress—I think that was one of the low-grade oils you spoke about—running up to 34, are those different grades of oil of different values?—A. They are.

Q. Which do you call the heavier oil, the 26-degree or the 34-degree?—A. 26 is the lower grade, heavier oil.

Q. Heavier oil and worth less?—A. Worth less.

Q. And so running from 26, say, up to 34, the different grades are of higher value as you go up in the scale of degrees?—A. Yes.

Q. Supposing, Mr. Litchfield, you were to run through a pipe line oil of one quality or degree, a bunch of oil of one quality or degree,
and send those through the pipes, all in the pipes at once,
11675 that again with a bunch of oil of another quality or degree, and send those through the pipes, all in the pipes at once, but followed successively, would there be any mixing of the oils?

Mr. KELLOGG. Do you know about this? Have you had any experience?

WITNESS. What is that?

Mr. KELLOGG. Have you had any experience in this? Do you know?

Mr. MILLER. Object to it if you think he is incompetent.

Mr. KELLOGG. If he is testifying to what somebody told him—I want to know whether he has had any personal experience.

A. My experience is that you run oil from a well producing a low gravity, and also from a well that is producing 34 gravity into a storage tank, and you make a general average that will show much

better and sell at about 32. It will equalize it, and I presume the same thing in mixing will bring it up. I know if you mix low gravity with high gravity it makes a good average. For instance, I am not able to sell my 28 or 29 gravity at 41 cents, but by mixing it in tankage with 34, a high grade, I am able to dispose of it at 32, which calls for 41 cents.

Q. The 41-cent price being for 32 or above?—A. 32 or above.

Q. Then the effect of the mixing of the oils would be to bring down the high grade of oil and to bring up the low to an average of the mixture, would it?—A. Yes sir. If you will bear with me,

11676 on the Johnson Farm Oil Company lease at Dewey, in the shallow sand, at about 600 feet, we had a low-grade oil. We drilled on down through. We had about a 20-barrel well. We drilled on down through to 1,100 or 1,200 feet, and we got the ordinary 32, 33, and 34 gravity; and by taking those both, mixing from the same well, in the same line, we sold that at an average price and made the low grade salable. That is on the Johnson Farm Oil Company lease at Dewey.

Q. If you put oil of a certain grade into a pipe, less than the capacity of the pipe in amount, and follow that with other oil of a different grade in the pipe, and a third oil of a different grade in the pipe, and send it through the pipe line, supposing those oils were of different owners, would either of the owners get the same oil that he put in?—A. No; the gravity would be equalized in the receptacle tank, wherever it was.

Mr. KELLOGG. In the tankage, you mean?

WITNESS. In the tankage it would be equalized. I could not tell whether it would be equalized in the line or not, but it certainly would when it was transferred to storage.

Q. Would there be any mixing in the pipe, according to your experience of piping oil of the different grades, supposing you ran one behind the other?—A. Why, I have not been in the pipe-line business. Our mixing has to be done on the lease. That is the way our oil is sold, by the gravity on the lease, what it registers.

Q. Now, referring to the stored oil, the oil stored in the tanks, which, you said, I think, amounted to something like 40,000,000 barrels, did you not?—A. Yes, sir.

Q. Is that oil subject to any depreciation, any loss, while

11677 so stored?—A. It is.

Q. What?—A. My positive knowledge in that is from what I learned by experience and also observation as to oil in storage on the lease. In a 55,000-barrel tank we figure that we lose about 6 inches the first year. The first year of its storage you lose approximately 6 inches. When I said 6 inches, I referred to the volume of the oil. The gravity slowly decreases, the same as it would in any other.

Q. Have you ever stored oil more than a year, or been familiar with the effects of storage upon the oil for a longer period than a

year?—A. No; I have not. All I know is based upon the experience of others. That is all I know.

Q. Have you observed, Mr. Litchfield, as the result of keeping oil in storage, a deposit of any sediment in the bottom of your tanks?—A. Yes.

Q. To what extent?—A. A recent experience of mine in wooden tankage on the Rebecca Wilkinson lease. For about seven or eight weeks I had had no oil run, and inquired as to the reason, and was informed that the oil was out of condition, and by measuring it showed about 14 inches of sediment in the wooden tank of 250 barrels.

Q. You say you have stored some oil—your own oil, I mean?—A. On the lease; yes, sir.

Q. Now, will you enumerate what other losses or expenses, outlay there would be upon the part of one who stored oil for a considerable period of time, than you have named?—A. You mean from the producer's standpoint, or the pipe line?

11678 Q. No, from the pipe line standpoint, or the standpoint of anybody that stored oil.—A. In wooden or steel tanks?

Q. Steel tanks.—A. There is the insurance, your loss of gravity, your loss in volume of oil, your repairs to tankage. That would refer to the individual producer, all of those.

Q. Well, all of that would fall upon anybody who stored oil?—A. Yes, sir.

Q. Anything else that occurs to you? Of course there is your investment and the interest on that.—A. Oh, the interest on the investment always, of course. Your tank would be $14,000 or $15,500, money that would be tied up, and filled with oil, 55,000 barrels, would be approximately $20,000; you would be out the use of that money; that is an important item.

Q. And the taxes on the property?—A. The taxes, all of those things, and labor.

Q. Then to a purchaser of oil who so stored oil, as was done down there by the Prairie Oil & Gas Company, the purchase price, say 41 cents a barrel, or whatever the purchase price was, has not represented the cost of the oil to such purchaser?—A. Not when stored.

Q. Would you say that the addition to the cost above that purchase price was considerable?—A. Certainly.

Q. Large as compared with the purchase price?—A. It would be.

Q. Can you state how much more, in your judgment, according to your experience?—A. It would be all except what the tanks

11679 would bring as a junk proposition, which is generally figured at 12½ cents a barrel, a tank at a time. If there were a large number of tanks for sale that would make some difference.

Q. That is, so far as the cost of the tank was concerned, when you come to dispose of your tank it is for the most part a junk price?—A. A junk price.

Q. And there would be the loss of the difference in the cost of your tank?—A. Yes, sir.

Q. And then these other additional elements that you have referred to?—A. Yes, sir.

Q. Taking them all together, what do you say they would amount to, all the elements of cost?—A. Oh, what would it amount to?

Q. Yes.—A. Well, there is the——

Q. State it per barrel if you can, or approximately.—A. That would be difficult. I would say, in a general way, that when a tank was filled with oil and stored, with all the conditions, fire protection and all that, that it would cost in a general way nearly as much as the purchase price again.

Q. So that, when the purchaser or storer of it came to
11680 dispose of it, it would have cost him about as much again as he paid for the oil per barrel?—A. I would say so; yes, sir. He would have to get that much out of it in order to be even, I would say.

Q. I ask you what the fact is as to whether when the storage is entered upon, one can tell how long that storage will last?—A. The question is, if one can tell?

Q. Yes. When one buys the oil and puts it into the storage tanks, whether he can tell how long he will be required to keep that oil there in storage?—A. Why, he will be unable to tell how long.

Q. That depends upon what?—A. Depends upon the demand, I would say.

Q. And so long as there is fresh oil running out there, that is not stored, enough to keep the pipes supplied, according to the practice the stored oil is not drawn upon?—A. That is what they are built for—storage.

Q. And it is only when the field begins to let up on the production that the storage supply is drawn upon?—A. That is the custom.

Q. Can anyone tell when that is coming?—A. No, it is impossible to tell, for new pools might be opened up, as they have been all through the last four years from month to month. Every time
11681 we thought we have got to the end of the line the pipe-line company set a line and opened up another big pool, and there you are right at it again. That has been the constant story, and the last one, the Glenn Pool, has been the biggest one of all of them.

Q. The Glenn Pool was the last one opened up?—A. Yes, sir.

Q. And that is bigger than any of the rest?—A. Yes, sir.

Q. Bigger than all the rest, isn't it?—A. Yes.

Q. Then you think that other pools are likely to be opened up in the neighborhood, for instance, of the pools in Oklahoma?

Mr. KELLOGG. Oh, this is getting into a realm of speculation away beyond anything in reason.

Mr. MILLER. Get in your objection.

Mr. KELLOGG. I object to it.

A. There may be. I could not say.

Q. How about the country west of Glenn Pool, and the 96th meridian? Has that been much explored yet?—A. In the Osage

Nation there has been very little development work in comparison with the amount of territory.

Mr. KELLOGG. We will concede, Mr. Miller, that the principal territory of land in the United States has not been explored. I don't think you need stop to prove it.

11682 Cross-examination by Mr. KELLOGG:

Q. Mr. Litchfield, you are selling oil at 41 cents a barrel?—A. I am; yes, sir.

Q. And you think the cost of storage equals 41 cents more, do you?—A. Approximately, I said; I think it would. The total cost of storage, interest on your money, and all items included.

Q. Now, I will take up the items. The first cost of storage is about 25 cents a barrel, isn't it?—A. About 27 to 28.

Q. 28 cents a barrel? Is that right?—A. Yes, sir.

Q. Now, you say you get 12½ cents back?—A. I didn't say we got it back. If you sell it at all you sell it at junk prices. There have been tanks sold at 12½ cents as junk.

Q. They are built of steel, are they not?—A. Yes.

Q. Junk steel is always salable in the market at a standard price, isn't it?—A. I can't say.

Q. Well, you get back about 12 cents a barrel, then?—A. I have heard of a junk tank, an empty tank, selling for 12½ cents; not in large numbers, but I know of such.

Q. Taking that from the 28 cents would leave 16 cents, wouldn't it, as the cost of your storage?—A. Yes, sir.

Q. Is 6 per cent interest a fair rate of interest for a large concern?—A. 8 per cent is regular in that field.

Q. You do not think the Standard Oil Company pay 8 per cent to get money to build its tanks, do you?—A. I could not say what they pay.

11683 Q. 6 per cent on the cost of that 28 cents would be less than 2 cents a barrel, wouldn't it?—A. I was speaking from the producer's standpoint as well as the pipe line.

Q. 8 per cent, then. What would 8 per cent be? About 2 cents a barrel per year, wouldn't it?—A. I have not figured it up.

Q. It is an easy matter to figure 8 per cent on 28 cents. About 2 cents a barrel, or a little over, isn't it?—A. That is for how long?

Q. A year. That would make you 18 cents for one year. Now, name some other items of cost per barrel.—A. Where is there any additional?

Q. Yes.—A. Insurance.

Q. How much per barrel is that?—A. I can't just say how much that is.

Q. Do you have any idea?—A. Did you figure on the value of the oil in the tank as interest?

Q. No, I have not; I have figured on the cost first.—A. If you had the money, $20,000, that would be drawing that much interest and be worth that much.

Q. Certainly. Have you made any figures at all to know whether it is 41 cents or 35 cents or 3 0cents?—A. I know that you are out—I am figuring on long-time storage now.

Q. How long?—A. Say ten years.

Q. Oh, you figure on ten years?—A. 5 to 10 years. It would vary. The interest on the money would vary.

Q. The Standard Oil Company makes it pay, don't they?—A. They make you what?

11684 Q. They make it pay, don't they, to buy oil? Or do you think they are going broke buying oil?—A. I have not any opinion on that.

Q. You have no opinion?—A. I don't assume that they are in business for their health.

Q. Now, the fact of the matter is, in every oil field they always store a lot of oil at first, but through a term of years the amount of oil stored is a very small percentage of the amount of oil produced, is it not?—A. That may be true.

Q. Through a term of years that is true, isn't it?—A. I suppose it is; yes, sir.

Q. Now, during 1907, which was in the early period of this field, did not the Standard store less than one-third of its production, of its purchase?—A. What do you mean by the Standard?

Q. The Standard Oil Company.—A. I don't know anything about that.

Q. The Prairie Oil & Gas Company, that is the same thing.—A. The Prairie Oil & Gas Company, as I stated, have a storage of approximately 40,000,000 barrels of oil.

Q. That is from the beginning of the field, isn't it?—A. Yes.

Q. Last year the Prairie Oil & Gas Company stored less than one-third of the oil it received, didn't it?—A. I don't know.

Q. What is the recognized paper which publishes the statistics of your productions? It is the Oil, Paint & Drug Reporter,

11685 isn't it [placing paper before the witness]?—A. I don't know anything about it.

Mr. MILLER. What is this?

Q. Did you ever see that?—A. I never have; no.

Q. Do you furnish statistics of your production?—A. We get them from various publications.

Q. What publications?—A. They are given. The Oil Investors' Journal, published in Tulsa, and the daily papers of our city give the runs. This is 1907. The total runs for the year were 35 million.

Q. Yes. What is the total amount that was tanked out of that?—A. I don't know.

Q. Look and see.

Mr. MILLER. Is that supposed to be given here?

Mr. KELLOGG. It is given separately.

Mr. MILLER. I object.

Q. The entire Mid-continent field?—A. It is stated here under "Prairie Oil & Gas Company," in this "Oil, Paint & Drug Reporter"——

Mr. MILLER. I object to this, because this document is not in evidence; it is not any of the witness' work; he never saw it before. The only way to get it in evidence is to offer it.

Mr. KELLOGG. It is accurate, and your people know very well it is accurate.

Mr. MILLER. I don't know whether they do or not.

Q. It appears here under "Tanked," 10 million barrels, doesn't it?—A. That is what it states.

Q. Isn't it your recollection that is about what the proportion was?—A. I have never taken occasion to look that up or or investigate it.

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Q. You haven't any idea how many years they will have to hold that oil, have you?—A. I haven't any idea how many years they will have to hold it?

Q. Yes.—A. No one can tell. It depends upon the development of the field.

Q. Does it not depend also upon the amount they use?—A. It depends on that, and that depends on the capacity of their line.

Q. They have got lines extending from the Mid-continent field to the Atlantic Ocean, haven't they?—A. Yes, sir; have had for some time.

Q. Now you say that there is a shrinkage by storage. Doesn't the Prairie Oil & Gas Company deduct from your oil 3 per cent for loss by sediment, shrinkage, and otherwise, when it buys it?—A. They may.

Q. Well, don't they do it?—A. I don't know that they do. I have never——

Q. You don't know?—A. No.

Q. Isn't that a Standard regulation?—A. I have never seen any statements that I have received with that on. They show the number of barrels according to the gauge. Now I believe that is done.

Q. You believe they do do it?—A. I believe there is a deduction. Just what it is I do not know.

Q. You are a large producer, aren't you?—A. Yes, sir.

Q. About the largest outside of the Barnsdall concern in that territory?—A. No; I rank as a large producer.

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Q. You look after your business yourself pretty closely?—A. Well, I intend to. I have officers that take care of the oil business entirely. I don't know definitely on the point you ask. I can not testify.

Q. Don't you know that they make a reduction?—A. I understand that they do; yes, sir.

Q. Now, don't you understand that is 3 per cent?—A. I can not testify that, whether it is or not, sir.

Q. Well, there is a deduction that they make from your oil for loss by shrinkage?—A. A small reduction, that is what I understand.

Q. What do you mean by a small reduction?—A. A small percentage, like you stated.

Q. 3 per cent, isn't it?—A. Not over that.

Mr. MILLER. 3 per cent of what?

Mr. KELLOGG. 3 per cent of the total amount of oil.

WITNESS. I stated that I had never seen a statement with that deduction on it in any of the sales.

Q. The statement is made up of the net oil that they pay you for, isn't it?—A. The net barrels, at so much a barrel, and that is all I have ever seen.

Q. And in making up the net they first take out this deduction, don't they?—A. They may do that.

Q. Isn't that your understanding?—A. If they do, they take it out themselves; yes, sir.

Q. That is your understanding, that they do do that?—A. I have understood that they make a deduction.

11688 Q. Now, you testify that you are pretty familiar with all this field. What do you call this field, the Kansas and Oklahoma field together? What is it known as?—A. Known as the Mid-continent field.

Q. The Kansas field developed earlier than the Oklahoma part of the field, did it not?—A. The development was, I believe; yes, sir.

Q. You live at what place?—A. Independence, Kansas.

Q. And you are familiar with the development in Kansas as well as in Oklahoma?—A. I never had a barrel of production in Kansas; I know very little of it.

Q. But you were living there during the time, were you not?—A. My home is there; yes, sir; I live there.

Q. Now, the principal production in that field, taking the whole Mid-continent field, commenced in 1904, didn't it?—A. Well, the Oklahoma—1904?

Q. Yes, the whole Mid-continent field, the heaviest production, the commencement of this big production.

A. The Oklahoma production was in 1904—I testified on that—the large production.

Q. The total production of the entire Mid-continent field in 1904 was less than 6 million barrels, wasn't it?—A. I could not say.

Q. You recollect, don't you, that during 1904 there was a very large increase of production?

Mr. MILLER. In Oklahoma?

A. In Oklahoma; yes, sir.

11689 Q. Yes, and in the whole field—Kansas?—A. I never had any production in Kansas and I do not recall any of the circumstances.

Q. Do you pretend to say you live in Kansas and don't know whether they produce oil or not?—A. I know they produce oil; yes, sir.

Q. Don't you know about when they commenced to produce it in large quantities?—A. No; it was before I came there.

Q. When did you go there?—A. In 1904.

Q. You know what they did in 1904?—A. I said they were producing oil there, but I know nothing of the field.

Mr. MILLER. I think I will object to counsel for the Government going over what was not gone over on direct, and then I should like to suggest to counsel that he treat the witness with some consideration.

Mr. KELLOGG. I do. I would not talk so loud, but evidently the witness is a little deaf. I don't like to speak so loud.

Mr. MILLER. I am not objecting to that.

Mr. KELLOGG. I get up as close as I can to him so as to make him hear.

Q. Now, Mr. Litchfield, you testified to a large number of independent refineries.—A. I mentioned some; yes, sir.

Q. In Kansas?—A. Yes, sir.

Q. Do you know the total capacity of all these refineries?—A. No, sir.

Q. You know they are comparatively small, don't you?—A. I went through the Kansas City Oil Refinery at Kansas City, and it did not impress me as being very small. It might be small
11690 compared with those at the Gulf, but it looked like quite a business proposition to me.

Q. Do you know the size of the Standard Oil Sugar Creek Refinery?—A. I do not.

Q. It is reported by the Standard Oil Company to be 17,000 barrels capacity per day. That is the largest refinery in that country, isn't it?—A. I should say it was, if that is their capacity.

Q. Do you know the capacity of the Standard's Neodesha refinery?—A. Kansas City?

Q. No; Neodesha, Kansas.—A. Interstate, Kansas?

Q. Neodesha, Kansas.—A. Where is that located?

Q. Why, located at Neodesha.—A. Oh, Neodesha. I have passed by it.

Q. It is reported that has a capacity of 6,000 barrels.—A. Yes.

Q. And the Kansas City Oil Company's, of Kansas City, 250 barrels?—A. The Kansas City Oil Refinery?

Q. Yes.—A. We are selling them a thousand barrels a day—delivering 500.

Q. Well, that is what they reported; perhaps that is the original construction.

Mr. MILLER. How do you know that is what they reported, Mr. Kellogg?

Mr. KELLOGG. Now, you wait.

Mr. MILLER. I shall have to cross-examine you if you make statements outside of the record.

Q. Were you selling them a thousand barrels a day?—A.
11691 We have been delivering 500, and they informed us that soon after the first of November they would take a full thousand barrels a day, but they have been taking 500.

Q. They have been taking 500?—A. Yes.

Q. Have they been taking that oil for refining?—A. I don't know.

Q. Or for other purposes?—A. I suppose the capacity means for all purposes.

Q. When was it originally built?—A. The Kansas City?

Q. Yes.—A. I don't know.

Q. Isn't it a fact that all of the independent refineries, with one exception, have been built since 1905, in Kansas?—A. I couldn't say about that. I think there was a small refinery at Longton, I am not sure, or Humboldt, around there, but I can not say, I can not testify. I think I testified that all I know of had been since 1904. I think I am safe in that.

Q. Now, haven't they all been built since 1905?—A. I can't testify.

Q. Do you know of one that was built in 1904?—A. I can't testify.

Q. Do you know of one that was built in 1905?—A. I can't designate, but I know of these names appearing in the paper from time to time and my reading them.

Q. You don't know the capacity of them?—A. No, sir.

Q. You don't know the capacity of the Standard Oil's?—A. No, sir; I do not.

Q. Do you know how much oil all of the independents, exclusive of the Texas and the Gulf Refining Company, purchased or re-
11692 ceived during the year 1907?—A. I can't give you the figures.

Q. You have no idea how much?—A. What year did you say?

Q. 1907.—A. How much?

Q. Yes. The total independents, outside of the Texas and the Gulf.—A. No; I have not any definite knowledge. I know they are all running and doing business, as far as I know.

Q. Wasn't it about 1,642,500 barrels?—A. I could not testify on that.

Q. Out of a total of 44 million barrels, or a little over 44 million barrels?—A. Well, if that is based on the average they have given all the way, then the Kansas City Refining Company must be——

Q. I am asking you.—A. I can't testify.

Q. You have no knowledge at all how much the independents take, have you?—A. Well, I know they take some oil, they buy oil.

Q. They take some oil?—A. I know they buy oil.

Q. That is all you know about it?—A. These independent refineries, as far as I know, are running successfully. I have heard of no financial failures, and I have seen their wagons delivering goods. We have also sold some oil recently to one refinery at Chanute, Kansas, and these Kansas City refining people, through their Mr. Corbin, came to our city for the express purpose of making a contract for this oil. I know they are using oil, but how large quantities I am not able to tell you.

Q. How much does the Gulf Refining Company take?—A. Why, I suppose they took——

Q. How much did they take in 1907?—A. I don't know
11693 definitely. I understand they have a good-sized refinery.

Q. The Gulf Refining Company?—A. Yes.

Q. How much does the Texas Refining Company take?—A. I can't testify to the capacity of those plants.

Q. Then you don't know anything about the degree of competition in that field at all, do you?—A. I know they are large refineries, the Gulf and the Texas.

Q. What do you mean by large refineries?—A. I mean they do a large business.

Q. What is a large business?—A. They sell a lot of by-products of petroleum.

Q. What is a large amount of by-products—what amount?—A. Now, let us see. I believe in the Glenn Pool the Texas and the Gulf are taking daily, if I remember correctly, about one-quarter of the production of the Glenn Pool, and that is something to indicate what they were doing.

Q. They do not take any other place in the field than Glenn Pool, do they?—A. Not to my knowledge.

Q. What percentage do they take of the entire Mid-continent?—A. I refer to Glenn Pool; that is all I know.

Q. You don't know anything about all the rest?

Mr. MILLER. Glenn Pool is much larger than all the others, isn't it.

WITNESS. That is the largest pool. I believe the Glenn Pool is the north terminal of their line.

Q. Now, what percentage of the total production of the Mid-continent field is in the Glenn Pool?—A. What percentage of the Mid-continent field?

11694 Q. Yes; the entire Mid-continent field.—A. Do the Texas and the Gulf take?

Q. No, no; Kansas and Oklahoma. That is called the Mid-continent field?—A. Yes. I didn't understand your question.

Q. What percentage is the Glenn Pool of the entire field—Kansas and Oklahoma?—A. At the present time?

Q. In 1907, say.—A. The Glenn Pool has had as high as 125,000 barrels a day production.

Q. No, no; but what percentage of the total amount per year?

Mr. MILLER. Haven't you got in evidence statistics on all of that?

Mr. KELLOGG. I want to see what this witness knows about it.

A. I understand that the percentage of the Glenn Pool in 1907 must have been approximately three-fifths of the entire production.

Q. Then, one-fourth of three-fifths would be what the Texas and the Gulf would take?—A. That is about it, I should say; yes, sir.

Q. Were you producing any oil in 1904?—A. I think possibly the very last of December, 1904, at Cleveland, Oklahoma.

Q. What was the price of oil in the beginning of 1904 in Kansas?—A. I can't recall, but when I was selling, I think in December, 1904, it was about 90 cents.

Q. In the beginning of 1904—February and March—it was as high as $1.25 to $1.31 a barrel, wasn't it?—A. It has been that high.

Q. And in the latter part of 1904 it was selling as high as 90 cents in some amounts?—A. That is my recollection.

Q. It has steadily decreased every year since then to the
11695 present time, hasn't it?—A. Yes, sir.

Q. Until now your best grade of oil is selling at 41 cents?—A. For the most part.

Q. The Texas Company and the Gulf Company, the two big companies that have pipe lines there, did not go into that field until the latter part of 1907, did they?—A. It was during 1907.

Q. So that during the years 1904, 1905, 1906, and a part of 1907 there was practically no competition in your field, was there, outside of the amount that the local refineries took?—A. Not as far as I know.

Q. And during 1904 and 1905 there were practically no other purchasers except the Standard Oil or the Prairie Oil & Gas, were there?—A. Oh, I think that would be right.

Q. The Texas Oil Company is a concern down in Texas, isn't it?—A. I understand so; yes.

Q. And the Gulf Refining Company is Mr. Guffey's company, isn't it?

Mr. MILLER. I object to that.

A. Well, I don't understand that. I understand the Mellons, of Pittsburg, are interested in the Gulf.

Q. Mr. Guffey started it, didn't he?—A. Yes; I think so. I believe they purchased the Guffey interest.

Q. The J. M. Guffey Petroleum Company is in the same concern?—A. There is a company of that character; yes, sir.

Q. Do you know whether or not there is any competition
11696 between those companies and the Standard?—A. The question, please?

Q. Do you know whether there is any competition between those companies and the Standard Oil Company?—A. They are all buying oil.

Q. Yes, but do you know whether there is any real competition, Mr. Litchfield?

Mr. MILLER. Between what companies and the Standard Oil Company?

Mr. KELLOGG. I asked him very distinctly. The Texas Company and the Gulf Company and the Standard Oil Company.

Mr. MILLER. And the Prairie Oil & Gas Company?

Mr. KELLOGG. Yes; that is the Standard.

A. As far as I know they are considered competing companies—the Gulf, the Texas, and the Prairie.

Q. Did you ever see any evidence of any very sharp competition?—A. I know that the Gulf Pipe Line Company and the Texas Pipe Line Company have been very anxious to secure production.

Q. Oh, certainly, but in the purchase of oil have you ever seen any very sharp competition between the Gulf, the Texas Company, and the Prairie Oil & Gas?—A. No, because there is more oil offered than the lines can run.

Q. There is no competition at all, is there?—A. I don't know just what you mean by competition in that case.

Q. Well, don't you know what competition means?—A. Competition means the desire to purchase ahead of the other fellow.

Q. Bidding up against each other on the price of oil?—A. Well, there has been no bidding up on the price as against each
11697 other; their prices have remained fixed. That is on account of overproduction.

Q. You testified in response to Mr. Miller that these independent oil companies were selling oil on the streets, or from tank wagons, rather, in competition with the Standard.—A. Oil and other products; yes, sir.

Q. Selling refined oil and gasoline?—A. Yes, sir.

Q. When was it they commenced to sell refined oil and gasoline in Kansas?—A. During the last two years I have noticed them selling.

Q. The Webster Refinery—do you know the Webster Refinery?—A. Webster Refinery, I believe, is at Humboldt—one of them.

Q. That was an earlier date, wasn't it, built some time during 1904?—A. It might have been.

Q. And it is the only one that was built during that time, isn't it?—A. I could not testify to that.

Q. Isn't it a fact that since the independent oil companies have commenced to sell oil in your town—what town is that, Independence?—A. Yes, sir.

Q. —that the price has gone from 15 cents a gallon down to 9 cents a gallon?—A. The selling price?

Q. Yes, sir.—A. I am not familiar with the prices; I could not testify on that.

Q. You don't know?—A. No, sir; not of refined products.

Q. Do you buy any?—A. Not personally; no, sir.

Q. You don't know anything about it?—A. I do not know what their products are selling for to-day; I haven't very much idea.

11698 Q. And you have never known that the price of oil has decreased about 6 cents a gallon in Kansas?—A. Oh, I suppose it has varied, but I could not make a statement that it has decreased 6 cents.

Q. Don't you know that it has decreased generally?—A. It may have. I don't know that it has not.

Q. There was a good deal of agitation in Kansas, in about 1905, over the Prairie Oil & Gas Company, wasn't there?

Mr. MILLER. I object to that as not cross-examination and as immaterial and irrelevant.

Q. You may answer.—A. Considerable agitation?

Q. Yes.—A. With reference to what?

Q. A good deal of agitation and bitter feeling against the Prairie Oil & Gas Company, in 1905, in Kansas and Oklahoma.—A. I was not in the oil business in 1904 in Kansas and have never been; but the only agitation I remember of hearing remarks made about was in regard to the rating of this gravity of oil. They classified the oil by gravity.

Q. Why, don't you know they called a special session of the legislature and passed a bill to erect a refinery and that the newspapers were full of it?—A. I——

Mr. MILLER. Wait a moment. May I object?

Mr. KELLOGG. Yes, sir; certainly.

Mr. MILLER. I object to that as obviously improper. That is not cross-examination. It is immaterial and irrelevant if true; and if it were material and relevant it ought to be proved in another way, and I submit to counsel for the Government that he knows that that evidence is improper.

11699 Mr. KELLOGG. I think, Mr. Miller, it is more proper than most that you have been bringing out, and this witness testified there was perfect satisfaction with the Prairie Oil & Gas Company. I can show by this witness——

Mr. MILLER. He was speaking of Oklahoma.

Mr. KELLOGG. I can show by this witness that the satisfaction came after this agitation.

Mr. MILLER. You are trying to show that the agitation came after the satisfaction.

Mr. KELLOGG. No, sir.

Mr. MILLER. Agitation in one part of the country after the transactions and the satisfaction in another part.

Mr. KELLOGG. They are not so far apart, Mr. Miller, that they did not hear about these things.

Q. Now, please answer the question.—A. The question is what?

The following question was read: "Why, don't you know they called a special session of the legislature and passed a bill to erect a refinery and that the newspapers were full of it?"

Mr. MILLER. Full of the refinery?

Mr. KELLOGG. No; full of this agitation.

A. I just recall now the talk of the State's refining.

Mr. MILLER. Does the Government want to go into that whole Kansas business?

WITNESS. But in our part of the State there was nothing serious or disturbing, as far as I now recall. Just the same way they are talking about this bank-guaranty bill now, the same kind of a talk.

11700 Mr. KELLOGG. The Government offered no evidence whatever about the Kansas business until you went into it. You went into it with this witness. I am just cross-examining him to see what he knows about it. There are several things I will find out from this witness.

Q. Then, you do remember that, do you?—A. I remember of the talk in regard to building a State refinery.

Q. Do you remember the passage of the antidiscrimination law?—A. No, sir.

Q. You don't remember that? You never heard that there was such a law in Kansas?—A. I can't testify on that.

Q. Do you know about the passing of the freight-rate law?—A. I understand there was a freight-rate law passed; yes, sir.

Q. That was in 1905, wasn't it?—A. It might have been.

Mr. MILLER. I preserve the same objection to all this line of evidence.

Mr. KELLOGG. Certainly.

Q. Well, you recollect it, do you, now?—A. I have heard talk of a freight-rate bill; I have no definite knowledge as to what the bill contained or its main provisions.

Q. Now, was not all of this agitation, was not this special session of the legislature, and these bills passed by reason of a very bitter feeling there against the Prairie Oil & Gas Company in Kansas?

Mr. MILLER. That is objected to.

A. It certainly was not in my part of the State.

Q. It was not in your part of the State?—A. Southeastern
11701 Kansas. I do not recollect anything serious, anything more than what I have already testified to.

Q. You recollect no feeling whatever and no agitation?—A. No agitation.

Mr. MILLER. There is always agitation.

WITNESS. The producers are always sore when they can not run all their oil. That is an everyday occurrence. They are sore now all through the field. They would like to run their oil, but can not. That is the only thing that makes a producer sore. When he is running his oil he is happy.

Q. Were the producers sore in 1905?—A. They were not running all their production, I suppose; that was the trouble.

Q. And the price went down from $1.34 to 94 cents, didn't it?—A. I think at the time they put in that gravity that was the main talk.

Q. What was there about that gravity?—A. Classifying oil according to its gravity.

Q. Now, they pay the same price for all oil of 32 degrees gravity and above, do they not?—A. Yes, sir.

Q. Formerly they made 5 cents difference for each half of a degree, didn't they?—A. I think that is right.

Q. So that oil of 32 gravity or 30 gravity paid 20 cents less than the oil of 34?—A. Well, the variation is by degrees, as you state.

Q. 5 cents for each half degree?—A. Something like that. I have not a schedule with me. I do not know.

Q. So that oil of 28 gravity would be 40 cents less than oil of 34, wouldn't it?—A. Oil at 28 gravity?

Q. Yes.—A. Would be how much less?
11702

Q. 40 cents less than oil of 34, under their schedule.—A. Well, it would not on the 41-cent price. While I was not selling oil,

my recollection is that that gravity did not go into effect until the prices were pretty well down. That is my recollection of it.

Q. About what price was oil when that gravity went into effect?—A. Why, I would say it was under 50, in an offhand way.

Q. Under 50?—A. Under 50.

Q. So after that and during that time they made 5 cents for each half degree, did they?—A. They made a difference in price of that amount.

Q. 5 cents?—A. I expect that is it. I do not want to testify without looking at the schedule.

Q. So that if the price of 34 degree oil was 50 cents, the price of 28 would be 10 cents, wouldn't it?—A. At those figures; yes, sir.

Q. That is what they made, wasn't it?—A. I haven't the schedule with me; I can't testify. I think that is right.

Q. What was the schedule?—A. It was a variation. Whether it was 5 cents or not I can not remember. I think that is right, though.

Q. Yes, you think that is right. Now, there was very bitter feeling over that, wasn't there?—A. I can not testify as to how bitter the feeling was.

Q. Was there any feeling?—A. I do not know many Kansas operators. I know my relations are all in Oklahoma. I had
11703 no production; did not come in contact with them.

Q. And you have always dealt with the Prairie Oil & Gas Company, or principally with the Prairie Oil & Gas Company?—A. My only relation has been selling oil.

Q. Principally with the Prairie Oil & Gas?—A. Yes.

Q. You have been testifying about the general feeling among the producers. Who are the principal producers in Oklahoma?—A. I do not think I can recite the line of principal producers. There is a large number of corporations and individuals. There is a very large number of producers.

Q. Name some of the big ones.—A. Some of the large producers?

Q. Yes.—A. There is Mr. W. H. Johnson, of Bartlesville, either individually or with corporations. I know him to be a large producer. Mr. P. D. McConnell, now of Tulsa, is a large producer. Mr. G. W. Barnes, of Muskogee, I know to be a large producer, and W. L. Norton, of Bartlesville, is a large producer.

Q. Can you think of any other large producer?—A. Why, I could in a little time. I will tell you in a moment. Mr. Selby, of Marietta, Ohio, is quite a large producer.

Q. Did you ever hear of Mr. Barnsdall?—A. I have.

Q. He is a large producer, isn't he?—A. Just how much oil he sells I can not tell.

Q. Have you heard of Barnsdall & Glenn—the Barnsdall Oil Company?—A. I have.

Q. And the Indian Territory Illuminating Oil Company?—A. I have.

Q. They are all Barnsdall's companies, aren't they?—A. I don't know whether they are or not.

Q. Where is the headquarters of the Indian Territory Illu-
11704 minating Oil Company?—A. Tulsa, Oklahoma.

Q. Isn't that Mr. Barnsdall's company?—A. He was in it originally, but whether he is now or not I can not say.

Q. He was in it originally?—A. Yes, sir.

Q. The Barnsdall Oil Company, he is in that, isn't he?—A. It is evidently named after him. I suppose he was.

Q. Barnsdall & Glenn?—A. I know that Barnsdall & Glenn were together in a copartnership and did an extensive drilling in the Osage Nation and elsewhere.

Q. They had large leases of Osage lands, hadn't they?—A. Yes, sir.

Q. Didn't they have most of the Osage Nation?—A. I don't think so. The Indian Territory Illuminating Oil Company as a corporation has large equities granted through the Department of the Interior, I believe, under Hoke Smith. They had large grants, I understand that.

Q. That is the company you said Mr. Barnsdall started, that he was in originally?—A. I think a man by the name of Foster was the original man in that company.

Q. Mr. Barnsdall was in it, wasn't he?—A. I think he was.

Q. T. N. Barnsdall?—A. T. N. Barnsdall is his name; yes, sir. He has been a very large producer of oil. I doubt very much if you will find the records show that he is selling very much oil.

Q. Yes, I presume the records will not show it, but he has been a very large producer, hasn't he?—A. He has been. He has sold a lot of his property. I could not testify as to how large a producer he is to-day.

11705 Q. He sold them because the Department of the Interior got after him, didn't he?—A. I suppose he sold them for money; I don't know.

Q. Did you hear of the Department getting after him?—A. I read in the papers that the Department——

Mr. MILLER. I object to that upon all the ground previously stated.

Q. How long have you known Mr. Barnsdall?

Mr. MILLER. I object to that as entirely immaterial. I have not heard of any Mr. Barnsdall connected with this case.

Mr. KELLOGG. Oh, yes, you have.

Q. How long have you known him?—A. The first time I ever met Mr. Barnsdall was within three years.

Q. Three years ago?—A. Yes.

Q. That was about 1905?—A. I had heard of him before. I know him in a passing way, that is all.

Q. When did he commence——

Mr. MILLER. Is counsel making this witness his own witness on this subject?

Mr. KELLOGG. No; he is testifying about all these producers.

Mr. MILLER. I object to this as not cross-examination, immaterial, and irrelevant.

Q. When did Mr. Barnsdall commence in the oil business in Oklahoma?—A. I don't know.

Q. About 1905?—A. I could not say.

Q. Was he there in 1905?—A. I don't think he was there very much, himself.

Q. I know, but was his company there doing business in
11706 1905?—A. The Indian Territory Illuminating Oil Company were in existence at that time.

Q. They started in 1905, didn't they?—A. I can not say.

Q. Well, about when?—A. They were in existence in 1905.

Mr. MILLER. Might I have the same objection to this whole fishing excursion?

Mr. KELLOGG. You may have the same objection to all this testimony.

Mr. MILLER. That is the objection I want to request.

Q. It appears in this case that Mr. Barnsdall, between 1905 and March 30, 1907, borrowed $7,500,000 from the Standard Oil Company of New York.—A. [Laughing.] I don't know anything about that.

Q. Wait a moment. I am not through yet.

Mr. RUNYON. What exhibit is that, Mr. Kellogg?

Mr. KELLOGG. Petitioner's Exhibit 401.

Q. Do you know whether Mr. Barnsdall was doing business for himself or for the Standard Oil Company of New York?—A. I know nothing about it whatever.

Q. Did you ever sell him any oil?—A. Who?

Q. Any of his companies.—A. No, sir.

Q. Never sold him any oil?—A. No, sir; I have not. The question is, Have I ever sold oil to Barnsdall?

Q. Or any of his companies.—A. No, sir. No, sir.

Q. They were producers, were they, holding leases?—A. I understand Barnsdall was a producer. That is all I know about it.

Q. How well do you know him?—A. Why, I have been introduced to him on several occasions.

11707 Q. Several occasions? Does he live in Pittsburg?—A. I understand that is his home.

Mr. MILLER. Are you through with that feature of the examination?

Mr. KELLOGG. Yes.

Mr. MILLER. I move to strike out all the questions and answers respecting Mr. Barnsdall as not cross-examination, incompetent, and immaterial.

The EXAMINER. May I ask a question?

Mr. KELLOGG. Yes.

The EXAMINER. Is all of the oil sold to the pipe-line companies?

Mr. KELLOGG. Yes.

Mr. MILLER. Is all of the oil sold to the pipe-line companies?

WITNESS. No; some of it is sold to the independent refineries.

The EXAMINER. I mean where it is taken away to a distance by a pipe line, does the pipe-line company buy the oil?

Mr. KELLOGG. In the midcontinent field the Prairie Oil & Gas Company is the purchaser and the seller of the oil it appears, in this case. In other fields the purchaser of the oil is, or was for many years, the Standard Oil Company of New York, now the Standard Oil Company of New Jersey. That is the testimony down to the present time.

The EXAMINER. What I wanted to get at was whether the pipe line was merely a carrying company, like a railroad, or whether it bought the oil.

11708 Mr. KELLOGG. In all fields except the Mid-continent field the Standard pipe line companies are simply pipe line companies, carrying companies. In the Mid-continent field the Prairie Oil & Gas Company buys and sells the oil also.

Mr. DURAND. And the Ohio Oil Company.

Mr. KELLOGG. Yes, I guess there is one other exception. The testimony of the Standard officials explains that fully, through Mr. Trainor and Mr. Chesebro.

Q. You stated yesterday that the Texas company sent out for bids for oil.—A. Yes, sir.

Q. Advertised among the producers——A. Yes, sir.

Q. ——to submit bids?—A. Yes, sir.

Q. And the Prairie Oil & Gas Company never did that, you say?—A. Not to my knowledge.

Q. How do they fix the price?—A. They post a schedule of prices.

Q. They name that, don't they?—A. They make the price.

Mr. MILLER. That is, they make their own price, you mean?

WITNESS. Their own price.

Mr. MILLER. They do not make the price for the Texas company?

WITNESS. No, sir.

Q. They have always made the price, their own price, in that field, haven't they?—A. Yes, sir.

Q. The purchasers have nothing to say about it, have they?

Mr. MILLER. I object. The purchasers have nothing to say about how much the Prairie Oil & Gas Company shall pay for oil

11709 or fix its price for it. The seller fixes his price and the purchaser fixes his.

A. The Prairie posts a schedule of prices, what they will give for oil.

Q. Ever since that field has been open they have announced the price, haven't they?—A. In that way, yes, sir.

Q. Ever since you commenced to sell oil you have taken what they have announced as that price, haven't you?—A. Yes, sir, as far as their company is concerned.

Q. Now, some of these independent refineries have paid a higher price, haven't they, than the Standard, at times—during 1907, say?—A. Not to my knowledge. I don't know about that.

Q. Do you mean they have not or you do not know about it?—A. I do not know whether they have paid higher or not.

Q. Haven't you seen their prices announced as higher than the Standard's?—A. No, sir.

Q. You don't know anything about the price they pay, anyhow, do you?—A. I know the price they are paying one of my companies today; that is the market price.

Q. That is the market price?—A. Yes; that is 41 cents; that is classed by the Secretary of the Interior as the market price, you know.

Q. That is all in Oklahoma?—A. Yes. That is all I know about the market price.

Q. You have sold nearly all of your oil, have you not, during these years, to the Prairie Oil & Gas?—A. Well, it would not average over half.

Q. Over half?—A. Yes.

Q. The balance you have sold to whom?—A. To the Texas,
11710 the Gulf, and the independent refineries.

Q. But the Texas and the Gulf did not come in until 1907?—A. What year did you say?

Q. During all the time you have been there.—A. Oh, I didn't understand the question. You say all of the time?

Q. Yes.—A. Oh, all of the time? Well, the greater part of it would be.

Q. During 1907 you sold a good deal to the Texas and the Gulf?—A. Yes, sir; since they have been in the field.

Q. But, excluding Texas and the Gulf, you have sold substantially all of your oil, haven't you, to the——A. Before the advent of the Texas and the Gulf it was substantially all sold to the Prairie Oil & Gas Company.

Q. Now, you have given it as your opinion that the Prairie Oil & Gas Company have dealt fairly with you. Do you think it is a good thing to have all the others get out of the territory and leave it all to the Prairie Oil & Gas Company?—A. No, sir.

Q. You do not? You think competition is a good thing, do you?—A. I think that pipe line facilities are a good thing.

Q. And you think it is a good thing to have other pipe line companies come in besides the Standard?—A. The more the better for the producer.

The Examiner. Do the Texas and the Gulf have their own pipe lines?

Witness. They have their own pipe lines. The only trouble is that their subsidiary companies have production of their own, and that keeps their lines full. They have not been the value to the field that the producers anticipated.

11711 Q. During 1907 the Texas and the Gulf companies built pipe lines from the Gulf up to the Oklahoma field, did they not?—A. In 1907?

Q. Yes.—A. During 1907, I think that is right.

Q. They have considerable production of their own?—A. Those companies which are supposed to be auxiliary to their pipe line companies.

Q. You don't know whether the Standard is interested in any auxiliary companies out there or not, do you?—A. Auxiliary companies?

Q. Yes.—A. Auxiliary producing companies?

Q. Yes.—A. No, I do not. They conduct theirs as the Prairie Oil & Gas Company producing department.

Q. They have a producing department?—A. Yes, sir.

Q. You don't know what interest they have got in other companies, do you?—A. I do not.

Q. You don't know whether they are interested in the Barnsdall companies or not?—A. I do not know anything of it.

Q. Comparatively, how large a producer is the Indian Territory Illuminating Oil Company?

Mr. MILLER. I object to that as immaterial and not cross-examination.

A. My information in regard to the Indian Territory Illuminating Oil Company is that for the most part they are purely a royalty company. Their interest is of a royalty character only.

Q. You mean they have leases on a large amount of producing lands?—A. Yes.

Q. And do they sublease to somebody else?—A. Yes, sir.

11712 Q. They sublease?—A. Yes, sir.

Q. But they own the leases on a large amount of producing lands?—A. I believe they assign the leases. I don't know whether you would call it sublease. I never had any in the Osage Nation; I don't know. But my opinion is that the Indian Territory Illuminating Oil Company assigns a certain part, subject to the approval of the Secretary of the Interior.

Q. Now, you say there has been no discrimination between the lease owners by the Prairie Oil & Gas Company?—A. Yes, sir.

Q. Because the regulations of the Department require that, do they not?—A. That was one reason I gave, yes.

Q. Those regulations of the Department were not in existence in the earlier days, in 1904 and 1905, were they?—A. No, sir.

Q. And it was to prevent discrimination that the Secretary of the Interior, Mr. Garfield, made those regulations, wasn't it?

Mr. MILLER. I object to that.

A. I don't know, I am sure. Those rulings came along with the advent of the Texas and the Gulf, and my impression is that the Department realized what an immense proposition they had on their hands and at that time fixed regulations that would control all of the pipe lines.

Q. That is, those regulations came along in 1907, you say?—A. I should say about during that time, along in 1907 or early 1908. They varied from time to time—additional regulations.

Q. Prior to that time there were no regulations on that
11713 subject?—A. Not that I know of. I am not familiar with the rulings of the Department prior to that time.

Mr. MILLER. I object to this as incompetent and secondary as well as not cross-examination.

Mr. KELLOGG. He testified to it on direct examination.

Mr. MILLER. The regulations, I take it, are printed; they are Government publications, and the only competent way of proving them is by the documents themselves.

Mr. KELLOGG. He testified to them on direct examination and I thought I had a right to cross-question him on them.

Mr. MILLER. He did not testify to the pipe-line regulations on direct examination.

Mr. KELLOGG. Oh, yes; those were pipe-line regulations.

Mr. MILLER. No, they were lease regulations.

Mr. KELLOGG. No.

Mr. MILLER. He testified as to a situation of putting down wells, that the leases required that when wells went down on one lease the other lessee, holding the adjoining land, should put down corresponding oil wells.

Mr. KELLOGG. Oh, I am not talking about that at all, Mr. Miller. I am talking about the antidiscrimination clause which the Secretary of the Interior put out in 1907.

Mr. MILLER. He has not testified to that.

Mr. KELLOGG. He testified to it on direct examination. Did you not, Mr. Litchfield?

WITNESS. I testified that the general production was prorated by the Prairie Oil & Gas Company among the various leases in
11714 proportion to the production; I testified to that yesterday.

Q. And also that the Secretary of the Interior required that, didn't you?—A. That was the requirement, that there should be no discrimination.

Q. I thought you did.—A. That was a recent requirement.

Mr. MILLER. That was volunteered by the witness.

Mr. KELLOGG. Well, he testified to it. Do you want to strike it out?

Mr. MILLER. No, but I object to your trying to prove the governmental regulations, as I said, except by introducing them.

Mr. KELLOGG. But you proved it yourself, Mr. Miller.

Q. Now, Mr. Litchfield, prior to these regulations you speak of, there were a good many complaints of discrimination, were there not, in Kansas, and in Oklahoma?—A. Not that I know of.

Q. You don't know anything about it?—A. No, sir.

Q. You never heard of it?—A. I can speak personally in regard to my own interests.

Q. You never made any complaint?—A. No, sir.

Q. Did you ever hear of any complaints?—A. I have made complaints, as I recited in my evidence to-day, but they were of a small character, and found reasons for them.

Q. Did you ever hear, prior to that time, of any complaints of discrimination against producers?—A. I never have heard of discrimination by producers against producers.

Q. I am not talking "by producers against producers."—A. That is the way I understood you.

Q. I am talking about pipe lines against producers.—A. I never heard of any instance.

11715 Q. You have not heard of any instances?—A. I have not heard of any.

(A recess was here taken until 2 o'clock p. m., at which time the cross-examination was resumed by Mr. Kellogg.)

Q. Mr. Litchfield, the great bulk of the oil produced and sold in the mid-continent field of Kansas and Oklahoma is 32 gravity or above, isn't it?—A. I should say it would average very close to 32, yes, sir.

Q. There is very little produced and sold less than 32 degrees?—A. That is my belief, yes, sir.

Q. And the amount of oil of less than 32 degrees which is produced is in a limited area, isn't it?—A. Yes, the area is limited, where it is produced.

Q. It is a small territory?—A. It is not necessarily all adjoining, but scattered, in spots; it will vary throughout the field.

Q. There are not many places in the field where 28 or 30 oil is produced, are there?—A. There is none to my knowledge in the Glenn Pool. North there are small areas, in the various fields in Oklahoma, where low gravity oil appears in considerable quantities.

Q. That is usually mixed with that above 32, making a standard grade of 32 or above, isn't it?—A. It can be mixed.

Q. Isn't it usually?—A. In my own experience, for instance, I will say the Canary lease, which has a low gravity oil, the oil is run into the tanks and they do not mix it there, in the tankage on

11716 the lease. It could be done. But when the gauger comes along he will gauge the tank and it will be run for just what that gravity is. It would be considerable inconvenience to arrange.

Q. You said this morning you usually mixed your low-grade oil with your higher and made it 32 and better?—A. You could do that.

Q. Well, don't you usually do it?—A. I recited one well in which both appeared, and by pumping the two together they made a very good average.

Q. Don't you usually mix your low grade with your higher grades and make it 32 or better?—A. No; I do not think we do.

Q. Do you know that, or are you just talking——A. We do not on the Canary oil lease.

Q. Do you on most of your leases?—A. The most of my leases are high-grade oil.

Q. Most of them are high-grade oil?—A. Yes.

Q. What did you mean this morning when you said you mixed the low grade with high grade and made it 32 or better?—A. That was in the Johnson oil lease, which I was reciting, where low grade was mixed with the high grade and equalized the gravity.

Q. Does the Standard Oil mix their oils—the Prairie Oil & Gas—do you know?—A. I don't know. They run into the lines, and I don't know.

Q. It is perfectly practicable to do it, isn't it?—A. It is; yes, sir; it would be perfectly practicable.

Q. Now, all oil of 32 or better brings the same price?—A. 32 or better brings 41 cents with the Prairie people.

11717 Q. You say that the business is profitable to your companies?—A. That is, the production of oil?

Q. Yes.—A. Is profitable?

Q. Yes.—A. It has been.

Q. At 41 cents a barrel?—A. And less—sold for less.

Q. You have been very successful at the business, haven't you?—A. We have had good leases and good production; yes, sir.

Q. Now, there is more or less risk in prospecting for oil, is there not?—A. Yes, sir.

Q. And many wells may be drilled and be a total loss?—A. Yes, sir.

Q. So that a prospector takes a good deal of chance, doesn't he?—A. In most instances; yes, sir.

Q. And ought to make a good profit, ought he not?—A. That would follow; he is entitled to it.

Q. Many producers have not made any money, isn't that true?—A. There are plenty of producers that have not made any money.

Q. You mean that if a producer has good wells and produces a large volume he can make money at the present prices?—A. Yes, sir.

Q. Your experience is in Oklahoma alone, is it?—A. Yes, sir.

Q. I suppose you know that in the past many of the producers in Kansas have not made any money, don't you?—A. I don't know of any just now that have made any big money in Kansas.

Q. In the past a great many of them have lost money, haven't they? In Kansas I am speaking of.—A. Why, I haven't

11718 definite knowledge of that, but in a general way it is believed that the production of oil in Kansas has not been profitable.

Q. To the producer?—A. To the producer. I know of one instance where it has been.

Q. But I am speaking in a general way——A. In a general way.

Q. Of that territory. And a good many producers in Oklahoma have not made money?—A. In some instances.

Q. Have you ever had any experience in any other oil field?—A. In any other?

Q. Yes.—A. Only in a limited capacity.

Q. Where?—A. I had some interests in the Ohio field for a short time; sold them after a while. I know very little of it. It was entirely left to other people.

Q. The general experience is that when a field first opens up, or after it has been opened up, in the early stages, there is usually an

overproduction, isn't there, and a large amount of oil stored?—A. That has been true in the Oklahoma field.

Q. And wasn't that true in Ohio?—A. I understand it was.

Q. And in Illinois?—A. I understand they have an overproduction.

Q. And the same in Pennsylvania?—A. Well, that was——

Q. A little back of your time?—A. A little back of my time; yes, sir.

Q. And it has been the experience of large oil-manufacturing concerns like the Standard that it has been profitable to store the oil during the time of excessive production, hasn't it?—A. It would appear so or they would not do it.

Q. You don't imagine for a moment that the oil of Okla-
11719 homa is not profitable to store, do you?—A. I think it is.

Q. The oil in Oklahoma is considered a very good quality, isn't it?—A. The average is good, yes; for the mid-continent field it is good.

Q. Do you know how it compares with Lima-Indiana?—A. It is considered inferior to the Lima and Indiana.

Q. It is considered a better oil than the Lima, isn't it?—A. In what respect?

Q. The Oklahoma oil is a better oil than the Lima, isn't it?—A. Why, I understand that it does not contain certain desirable by-products that are contained in the Ohio and Indiana oil. But on that point I am not prepared to testify definitely; I am not an expert on oil.

Redirect examination by Mr. MILLER:

Q. Referring to the Oklahoma oil as compared with the Ohio and Indiana, what you understand is that the Ohio and Indiana oils have a larger percentage of certain naphtha or gasoline elements that are of greater value?—A. That is what I have understood from oil producers in that section; I have no personal knowledge myself of it.

By Mr. KELLOGG:

Q. When did the Prairie Oil & Gas build its main lines into Oklahoma?—A. I know that early in 1905 we shipped oil from Cleveland, Oklahoma, by car to Bartlesville and Caney, where it was taken into the line. The line extended as far as Caney, and then afterward to Bartlesville in early 1905.

Q. That is, early in 1905 the line extended as far as
11720 Caney?—A. As far as Caney, Kansas.

Q. And then, early in 1905, it was extended to Bartlesville, Oklahoma?—A. It was extended to Bartlesville, Oklahoma.

Q. During 1906 and 1907 had they built a good deal of line in Oklahoma?—A. They extended the line south, following the development, as it went through the Tulsa field; Ramona, first—Ramona, Tulsa, and the Red Fork. Those were smaller lines, and then they put in larger lines after that.

Q. Now, these lines to Tulsa and Ramona and other places were built in what years?—A. The Ramona Pool must have been in 1905, in the height of the development, and they extended from Ramona a line to Cleveland across the Osage nation—Cleveland, Oklahoma.

Q. In 1905?—A. That was in 1905.

Q. Did they build any lines in 1906 and 1907?—A. Oh, they must have. Their policy, from my observation, is that when a pool is opened up they will run a small line there first. If that production increases and warrants it, they will replace that with a larger line, and follow the development in that way.

Q. Now, have they extended their lines in Oklahoma during 1907 and 1908?—A. They have constantly laid lateral lines, and they have gone to the Glenn Pool; that was prior to that time, however; and they have run a line to the Baldhill district, near Okmulgee, but the size of that line I can't say. I think it is a small line.

Q. What year was that?—A. That has been within a year.

11721 By Mr. MILLER:

Q. Did they lay a line to the Shallow Sand field?—A. Coodys Bluff; yes sir? Connecting, I think, at their main trunk line at Caney, they extended lateral or large lines to Coodys Bluff, Shallow Sand field.

Q. An 8-inch line?—A. Yes, sir.

Q. And that went down where—to Coodys Bluff?—A. Coodys Bluff; I think it is called Big Creek Station—Coodys Bluff.

Q. That line runs from Caney southeasterly, does it, to its terminus at Coodys Bluff?—A. It what?

Q. The direction of that line is southeasterly from Caney to its terminus?—A. Yes; that would be the general direction.

Q. Do you know the length of it, the distance?—A. No, I do not.

Q. Can you give it approximately—25 or 30 miles?—A. I should say it must be 25 miles at least, maybe more.

Q. Prior to the time when the Texas and Gulf pipe lines were extended into the Glenn Pool field, were those companies buying oil in the Gleen Pool field and storing it, say, in 1906?—A. Well, let us see about that. The Gulf Pipe Line Company, in 1906, began the erection of storage tanks prior to the building of the pipe line, and purchased oil.

Q. And they purchased oil and stored the oil before their pipe lines got in there?—A. That is right; I remember that. Their line was not completed until 1907, I think, about the middle of 1907.

Q. You replied to a question by Mr. Kellogg, that the price
11722 of crude oil in Oklahoma had decreased steadily since 1904. I suppose the production increased steadily also, did it not?—A. It certainly has, in a remarkable degree.

Q. The dealings of the buying of oil by the Prairie company and by the Texas and Gulf companies were competitive dealings, were they not, as you understood them?—A. You mean that I understood they were competitive dealings?

Q. Yes; competitors of each other in their purchase of oil.—A. I testified that they were not bidding against each other, as far as I knew, to raise the price, I mean, on each other for the purpose of getting production. They are not doing that.

Q. But they bought competitively?—A. They have competing pipe lines.

Q. Do you know of cases where the Prairie went on the leases where the Gulf or Texas lines were, where they were buying for 38 cents a barrel or thereabouts and took the oil at 41 cents?—A. I know that on the Gracia Berryhill lease, 80 acres, a very prolific lease, consisting of 21 wells, they had an earthen tank in which the oils were turned. After the tankage was full I positively know from that earthen tankage the Gulf Pipe Line Company's pump and the Texas Pipe Line Company's pump were side by side, taking oil from that earthen tankage, and at the same time it was at varying prices, from 30 to 33 cents, while the Prairie were taking the pro rata share from that same lease at 41 cents. All three pipe-line companies were taking from that same lease.

Q. But the prices that were paid by the three pipe-line com-
11723 panies were different?—A. They all varied. The Texas paid different than the Gulf, and the Prairie paid different than either of the others.

Q. And the Prairie paid the higher price?—A. Paid 41 cents.

Q. And generally or universally how had the prices of the Prairie company compared with the prices of the other pipe-line companies?—A. Since their advent they have been higher at all times, as far as I know.

Q. Mr. Kellogg asked you in connection with the difference in price offered for oil of different quality, different gravity, about a price down to 10 cents a barrel. Was there ever any price down there at 10 cents a barrel for oil in the Oklahoma field, as far as you know?—A. I did not understand Mr. Kellogg to say they reduced it to 10 cents. I understood that 4 degrees difference in the gravity made a difference of 10 cents in the price. Was that about what it was? Something like that. I didn't understand that he said it was sold at 10 cents.

Q. What is the fact about that? Was it ever?—A. Not to my knowledge, no; 39 cents was the lowest that I ever saw the price paid by the Prairie for oil.

Q. 39 cents?—A. 39 cents, I think.

Q. And that was oil of what gravity?—A. I think that that was 32 and over; and the price was raised from 39 up to 42, and then dropped back again to 41, where it has remained permanently for a couple of years now. I think that is right.

Q. For oil of lower degrees was there ever any oil bought there,
as far as you know, for a price of 10 cents a barrel?—
11724 A. No; not that I know of.

Q. Then you did not intend on your cross-examination either to state or to acquiesce in the statement that the variation in

the price of oil, according to the degree of gravity, brought the price down to 10 cents a barrel?—A. I did not intend to say that. I do not think so. I think there is a minimum gravity in the schedule; I haven't it before me or in my mind even, but it is 32, 30, 28, and 26, and as far as I know I have never known of any oil being sold at that price.

Q. Did you ever know of any oil being purchased in those fields for less than 28 cents a barrel?—A. I will make it 25 and be certain about it.

Q. You would be sure of 25, would you?—A. Yes.

Q. Are you able to state that there was never any bought by the Prairie Oil & Gas Company, or any discrimination on gravity, for less than 28 cents?—A. I have no knowledge of there being anything of that kind.

Q. And that lower price, below 39, that minimum for 32 degrees and upward—the prices below that have been for the lower grades of oil?—A. For the lower grades of oil, and varied according to the degrees of gravity.

11725 Q. What is their low-degree oil used for?—A. It is used for fuel oil, principally.

Q. That would be 28 degree oil or 26 degree oil?—A. Well, 28 and under.

Q. You mean by fuel oil that it is burned as crude oil, as fuel, and not refined?—A. What was that?

Q. I say, you mean in using it for fuel oil that it is burned as fuel and not refined?—A. Just fuel oil, for burning.

Q. You said that the Gulf and the Texas lines are producers of oil through their allied or subsidiary companies?—A. Yes; through their subsidiary or auxiliary companies.

Q. And that they are producers for the greater part of their own capacity?—A. Yes, sir.

Q. Almost the whole of the capacity of their pipe lines?—A. Why, I think the combined—the Texas and the Gulf's together—are reported to purchase about 15,000 barrels a day from the Glenn Pool.

Q. And the rest that they run through their pipes is of their own production?—A. They take their own production, of course—that is, their associated companies' production.

Q. So far as the Prairie Oil & Gas Company is a producer of oil, it takes leases and operates its own production in its own name?—A. Yes, sir.

Q. Wasn't it a fact, Mr. Litchfield, that the Prairie Company prorated with the other producers before the Interior Department's regulations therefor were established or promulgated?—A. As to discrimination?

11726 Q. Yes.—A. That was their avowed purpose and statement to that effect, through their representatives in the field, that they did that, and as far as I know, from my personal experience, with very few exceptions, I have never had occasion to complain.

Q. You would say they did it?—A. We felt that while we did not get anything like what we would like to have run, nowhere near, that we could not expect to have more run than our neighbor.

Q. You would like to have them take all the oil that you could produce?—A. We would like to have them take all; yes, sir.

Q. And pay you the cash for it?—A. Yes, sir; but we could not do it. We simply took that to get what we could.

Q. Then, I suppose, that if all the oil you could produce could be readily taken by the pipe line companies and carried off at 41 cents a barrel, the effect of that would very largely stimulate more exploration and more production, wouldn't it?—A. It would; yes, sir; and make your property a good deal more valuable, of course—double its value.

Q. Well, the value of oil property is not in holding it, is it, but it is in opening wells and getting out your oil and selling it?—A. It is getting the oil out of the ground and selling it; yes. That is where your profit is.

Q. It is not in taking leases and sitting down on your leases while your neighbors bore holes, bore wells in their property ad-
11727 joining, and draw off the oil and sell it, but it is in selling the oil just as fast as anybody else can possibly do it?—A. That would be very unprofitable work or development.

Q. Did you ever try, in your production of oil there, to get your oil carried over the Texas and Gulf lines, which are common carrier lines, for yourself as a shipper—carried by them as a common carrier for you as a shipper?—A. Oh, did I ever try to have them operate?

Q. Yes.—A. No, sir.

Q. Why didn't you do that?—A. It would be no good, sir.

Q. What?—A. It would be of no benefit.

Q. Why?—A. One reason is that I would have no market at their southern terminal after I had run my oil through. That is one of the principal reasons.

Q. Where do their lines terminate on the south?—A. Approximately at the Gulf, Port Arthur, and various places; I don't know just exactly, but they are along on the Gulf there where they terminate. But I would have no market; I would not know what to do with it. I would have to create storage for it if I could not sell it, the same as I now do. That is one. In order to use the line as a common carrier I would have to establish a sales office or a refinery, and establish a selling business at the lower end. Then the tariff—it is running about 40, over 40 cents; that is, I have seen the Gulf pipe line tariff. I think the Texas is about the same. I would not want to pay those charges and take my chance on the market.

11728 Q. I show you pipe-line tariff of the Gulf Pipe Line Company, being Gulf Pipe Line Company No. 1, and I. C. C. No. 1. I speak of it for identification of the tariff.—A. 45 cents—that is what this tariff shows.

Q. What is that?—A. 45 cents per barrel.

Mr. MILLER. I will say before the witness proceeds that this is the same tariff that I think was produced by the Government and referred to in a list of tariffs.

Mr. KELLOGG. We introduced all the tariffs, or a list of the tariffs in lieu thereof, showing the rates.

Mr. MILLER. This is one of the tariffs referred to in petitioner's Exhibit 39. That is right, Mr. Kellogg.

Mr. DURAND. Yes.

Q. Now you may go on. What other reasons?—A. Well, it would require a large expenditure or investment to be able to take care of your oil at the southern destination of the pipe line. The average producer is not able to furnish the necessary capital to do that. The tariff provides a minimum of 25,000 barrels to be taken, and that would eliminate some leases. I do not know of anyone that is doing it.

Q. You mean you know no shippers who have attempted to ship oil over these common-carrier pipe lines?—A. Not that I know of; not over the common carrier. It is impracticable. It looks impracticable to me. I would not want to do anything like that. There is no advantage in it. What I want to do is to sell my oil on the lease.

11729 Q. You observe that in the regulations of this tariff, in addition to the one that you referred to as to the minimum amount of oil, it is provided that no oil will be received by the company for transportation except oil from the Glenn sand in the Glenn pool near Tulsa?—A. Yes.

Q. Indian Territory?—A. Yes.

Q. And that no oil will be received the quality of which has been seriously impaired through the character of storage in which the same has been held. Now, the oil from the Glenn sand, which is the Glenn wool, is oil of that gravity?—A. 32 and over—average 32.

Q. It also provides that a deduction of 3 per cent in quantity will be made for evaporation and other loss during transit. Is that the 3 per cent that you said was usual, that you referred to upon your cross-examination by Mr. Kellogg?—A. Yes. I was not prepared to testify definitely whether it was 2, 3, 4, or 5. I could not do it.

Q. Well, whatever that percentage was that he referred to as 3 per cent is allowed for evaporation and other loss during transit?—A. I would like to explain the reason. I don't pay much attention to the run tickets. They are checked up by the clerks. I just simply look at the checks at the end of the month.

Q. I call your attention also to this regulation, that the pipe line company may refuse to accept oil for shipment unless satisfactory evidence be given that the shipper or consignee has made provision for the prompt receipt of said oil at the delivery station.—A. Yes.

11730 Q. That was one of the regulations that you referred to as difficult to comply with, requiring you to provide storage or disposition of the oil at the terminal of the haul, was it not? Is that

right?—A. Yes, sir. I consider those restrictions printed on that tariff as prohibitory to the ordinary producer.

Mr. KELLOGG. They were intended to be, weren't they?

WITNESS. The whole thing; yes.

Mr. KELLOGG. That is copied from the Standard's form.

Mr. MILLER. I will have to cross-examine you, Mr. Kellogg, if you persist in testifying here.

Mr. KELLOGG. Well, it is in evidence. Your form is in evidence, and so is that.

Q. Do you know whether these companies, the Gulf Pipe Line and the Texas Pipe Line, held themselves out as delivering oil of the same gravity as they received?—A. No; I do not.

Q. You mean you don't know, or that they do not?—A. Why, they say they will receive nothing under a certain gravity there, in the schedule, and that is all I know of the gravity proposition, in regard to the tariff.

Q. What is the capacity of the pipe lines of the Texas and Gulf companies, respectively?—A. Well, as I have stated, the average shows from 15,000 to 17,000 barrels a day of the two, that they are running now from the Glenn Pool. That is the last runs.

Q. You mean that they take and put into their pipes?—A. They are taking that daily, yes. They might be able to take some
11731 more, but I don't know. I think that 10,000 barrels a day would be very liberal for each line, very liberal.

By Mr. KELLOGG:

Q. You say the Gulf Pipe Line as a common carrier would be no use to you?—A. Yes, sir.

Q. And the reason is that you have not got any facilities for refining oil or receiving oil or selling oil at the Gulf, isn't it?—A. That is one reason, yes, sir.

Q. That is one reason. Another reason is that you are simply a producer and want to dispose of your oil at the wells?—A. Yes, sir.

Q. Now, it would be of use if a man had a refinery down on the Gulf, wouldn't it, to ship his oil to the refinery?—A. If he had a refinery and a market.

Q. A refiner who had a refinery on the Gulf could come up to Oklahoma and buy oil and ship it down there, couldn't he?—A. If he had a refinery?

Q. Yes, sir.—A. A profitable refinery.

Q. It would be of use to him if he could get reasonable rates, wouldn't it?—A. If he could get reasonable rates, yes, sir, and could get his oil through the line.

Q. Now, isn't it a fact that the Pure Oil Company have got a production in the Glenn Pool which they ship by the Gulf Pipe Line or the Texas Pipe Line, I have forgotten which—the Gulf Pipe Line, I believe—to the Gulf, and from there around to Philadelphia by boat?—A. They may have. I could not testify.

Q. You know they have got production out there, don't you—the Pure Oil Company?—A. Not in their own name, I do not
11732 know that they have.

Q. Well, you know the Pure Oil—the United States Pipe Line?—A. I know of the Pure Oil Company, an independent company; yes, sir.

Q. In the name of some company or producing company they own some production out there?—A. Well, they may. I did not know that the Pure Oil Company had any production of its own there.

Q. I thought you might know about it.—A. No, sir.

Q. You say 25,000 barrels as a minimum is prohibitive to many leaseholders who might be shipping?—A. I consider it would be; yes, sir.

Q. 300,000 barrels would be more prohibitive, wouldn't it? I notice in the regulations on Exhibit 45, the tariff of the Indiana Pipe Line Company, the Buckeye Pipe Line, and the National Transit Company, the minimum is 300,000 barrels.—A. Yes.

Q. You would consider that absolutely prohibitory, wouldn't you?—A. Yes, sir; from what I know of the capacity of the lines I should say that it would be prohibitory. I don't see how they could handle it. Of course, covering over a long period, it might be taken.

Q. There is not any one producer that could furnish them 300,000 barrels at a time, is there?—A. Not at any one time.

Q. It would have to run over a very long time, those 300,000 barrels, for——A. If they could deliver that amount of oil over a period.

Q. One shipment, for a single shipment?—A. For a single shipment I don't see how they could do it very well.

11733 Q. Now, if the Gulf Pipe Line or any other pipe line would make a reasonable rate for transporting oil, it would be of use to the refiners on the Gulf, wouldn't it, to independent refiners?—A. I should think if satisfactory arrangements could be made, sir, the rate satisfactory——

Q. And the minimum?—A. And the shipments, and the way they would take it so as to keep their refineries from shutting down, if they would take it when you offered it instead of telling you to wait a month or two, I should think it would be desirable.

Q. It would be very beneficial?—A. I should think so.

Q. To give them the benefit of it?—A. We would have to do this: We would have to send an agent down there and establish a market and do business.

Q. Oh, you would. I am speaking of a refiner down there who has got a refinery to use his oil. He comes up to you to buy it. It would be of very great use to him, wouldn't it?—A. If the price was satisfactory so that it would be profitable, I can see how he could use it.

Q. Do you know what a reasonable price is for piping oil from the Indian Territory to the Gulf?—A. Well, I should say it would be in proportion to the—no; I could not testify just what. It would be very much lower than that tariff.

Q. Much lower than 45 cents a barrel, wouldn't it?—A. It certainly would; yes, sir. The prices and the production in Texas would have something to do with that. You would then have to compete, you know——

11734 Q. I beg pardon?—A. You would have to compete—you would be obliged then to compete with the pipe-line refineries themselves.

Q. Oh, certainly; but the Texas refineries are shipping oil from Oklahoma down there for refining, are they not?—A. Yes, sir.

Q. Both the Gulf company and the Texas company?—A. Yes, sir.

Q. What is your business other than oil?—A. What is that?

Q. What is your business other than oil business?—A. Banking.

Q. Where are you a banker?—A. At Independence, Kansas.

Q. Does the Prairie Oil & Gas Company do business with your bank?—A. A portion of their account. They have an account with four banks in the city.

Q. They have a portion of their account with your bank?—A. A small proportion of it.

Q. What proportion of it?

Mr. MILLER. He said a small proportion.

Q. Well——A. If we got our share we would have a fourth of it, a fourth of their local business.

Q. Do you get a share?—A. I say, if we had our share—there are four banks.

Q. Do you get your share?—A. Well, I don't know. They have a small account with us. I will be very glad to explain that. It is what I call a thistle-blow type. There will be a deposit of $10,000 or $15,000 this morning, and checks will be in this afternoon and tomorrow for it, and very often an overdraft.

11735 By Mr. MILLER:

Q. Do you know how many barrels of oil it would take to fill an 8-inch pipe from the Glenn Pool fields to the Gulf?—A. No, sir.

Q. The oil in the pipe is driven by pumps, isn't it?—A. Pumped.

Q. Under great pressure?—A. There are sections where there is gravity, but the main part is pumped.

Q. That is, there are sections where it is downhill and other sections where it is uphill?—A. Yes.

Q. And other sections where it is level, or nearly so?—A. Yes.

Q. But they have to pump from stations a few miles apart?

Mr. KELLOGG. All of that has been explained, Mr. Miller, in this case. I don't suppose this man is an expert on pipe lines.

Mr. MILLER. I wanted to get this before his mind, that was all.

Q. 25,000 barrels would not fill a pipe of that kind, would it?—A. 25,000 barrels would not fill a pipe line?

Q. Yes.—A. To the Gulf?

Q. Yes.—A. I should not think it would, or anywhere near.

Q. Then if the pipe line took 25,000 barrels, it would have to put other oil in with it in order to fill the pipe, to put that oil through

the pipe from Oklahoma to the Gulf, wouldn't it?—A. They would have to have a full line to get satisfactory——

11736 Q. In order to pump oil you have to have your line full?—A. Yes.

Q. You could not take a small lot of oil, like 10,000 barrels, and put it through a line, could you?—A. You have to have the pressure.

Q. Yes; you would have to have the pressure, and that means that the oil of one bunch would go in following the oil of another bunch?

Mr. KELLOGG. Which is done right along, always.

WITNESS. Why, it would not be all the same oil. The oil from one lease would follow the oil from another lease; yes, sir.

Q. And if your oil at 32 degrees or better were put into the pipe, and my oil of 26 or 28 degrees put in afterward, would your oil come out at the other end of the pipe of a grade of 32 degrees?

Mr. KELLOGG. Now, do you know anything about that?

WITNESS. I know that mixing of oils of two different gravities will equalize the gravity.

Mr. KELLOGG. Do you know that they would mix in the pipes?

WITNESS. I could not swear that they would mix in the pipe line.

Mr. KELLOGG. Of course you can't.

Q. Have you ever seen, in your piping in Oklahoma, oil of different gravities get into the same pipe, one after the other?—A. They pump oil of different gravities into the same pipe line.

11737 Q. One after the other?—A. Various wells at the same time. It goes in together.

Q. Oh, they don't pump successively?—A. There may be a hundred pumps working at the same time, all on the same line. In every field to-day there are probably 150 or 200 pumps working.

Q. If the oil in the case supposed, the oil of different shippers, and of different gravities, were put in successively, and if they would mix in the pipes, why, then, one shipper would not get his oil at the other end, would he?

Mr. KELLOGG. That seems to be pretty nearly demonstrated. I don't think this witness needs testify to that.

WITNESS. Now, just a moment if you please. You are assuming, as I understand, that one man's oil is poured in here and then another fellow's?

Q. Why, sure.—A. Well, that is not possible. This oil is pumped in from a hundred different sources, through a thousand different laterals, into this one main line. It would have to be mixed going in.

Q. I see.—A. But assuming what you ask me, if you will bear with me, one following the other, pouring it all in at one end, I could not testify that it would mix; but the facts in the case are that there are hundreds of laterals, every hour in the day, gathering oil from every part of the field, gathering oil all going into that main trunk line. That is the situation.

Q. Then necessarily in the practical operation of the pipe line, the oil of one shipper would mix with the oil of the

11738 other?—A. It would be impossible to deliver a fixed gravity at the other end.

Q. I see. And the pipe line companies do not purport to deliver oil of a fixed gravity, but only to deliver oil of a common stock?—A. I have never heard of their purporting to deliver anything of that kind.

Q. I call your attention to one of these regulations of the Gulf Pipe Line Company, "that the company shall be under no obligation to make delivery of the same oil which it may receive, but all oils received for shipment are to be delivered out of its common stock of Indian Territory oil at the delivery station."—A. Common stock; that is what you get. You would get an equal number of barrels of common stock oil.

By Mr. KELLOGG:

Q. You have never had any experience in operating a pipe line, have you?—A. No, sir.

Q. You don't know anything about it, do you?—A. Only by observation.

Mr. KELLOGG. Well, that is what I supposed. That is all.

Mr. MILLER. I offer in evidence this Gulf Pipe Line Company tariff No. 1, to which I referred, which may be marked as an exhibit.

(The paper referred to is marked "Defendant's Exhibit 219.")

11739 J. G. WATTS, called on behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Mr. MILLER:

Q. Where do you reside?—A. At Haskins, Ohio.

Q. What is your business?—A. I am in the oil business, oil and grain business.

Q. Have you ever been in the oil-producing business?—A. Yes, sir.

Q. In what field were you an oil producer?—A. In the North Lima.

Q. And how early were you in that field as a producer?—A. About the last part of 1886.

Q. And was that the time of the beginning of the development of that field?—A. Yes; the very first start of it in our section; in fact, about the beginning of it in the field.

Q. And you produced and sold oil, did you?—A. Yes, sir.

Q. In the early development of the North Lima field, with which you were familiar, was the crude oil used for refining?—A. It was used for fuel mostly—used entirely, I guess, the first part of it.

Q. Do you remember whether the first attempts at refining that oil were successful?—A. They certainly were not.

Q. Do you remember why not—what the trouble was?—A. They claimed there was too much sulphur in it.

Q. What effect did that have upon the refined oil?—A. It
11740 left a bad odor in the house; the smell from it and also the chimney would all black up, so that it could not be used.

Q. How long did that condition of things last?—A. I don't think they got to refining it successfully before 1890; somewhere in that neighborhood. Maybe 1889.

Q. Now, during the time and before they got to overcoming this trouble with the North Lima crude, what was the price of crude oil in that field?—A. It started in in our section—the highest that I ever got for it; that is, the lowest was along about 17 cents, started in first about 17 cents. In fact I sold a little of it at 15.

Q. And that price was substantially fixed on the basis of the oil for fuel purposes?—A. Why, I suppose so. I could not say it was for anything else, because they were not using it for anything else at the time.

Q. You say that somewhere about 1890 there was a change in the refinability or the results produced in refining North Lima crude oil?—A. Yes, sir; along somewhere about that time.

Q. Did that have any effect upon the production and price of that oil?—A. Yes, sir; after they commenced to get to refining it why it commenced to advance—the price advanced some.

Q. Did the production increase then?—A. Yes; the production increased, because they did not have facility for taking care of it before that. They commenced to get into shape to handle it.

Q. What facilities came in there. What better facilities did they have?—A. The Buckeye Pipe Line came in there at that
11741 time; that is, into our section. They had been in the southern part of our county, but they ran their line up into our part of the country then, and we were connected up with them. Before that we were loading our oil in a loading rack at our station.

Q. And the advent of the pipe line of the Buckeye Company and the increase in the value caused increased production of the oil, did it?—A. Yes, sir.

Q. Do you know of the Buckeye Company's buying oil which it did not dispose of but stored?—A. Why, yes.

Q. Was that done in your section?—A. Yes, sir.

Q. How was the oil stored?—A. Why, it was pumped; that is, along until it was about 20 cents. They pumped it south into tanks of the Buckeye Pipe Line. They had tanks at Cygnet, large receiving tanks. They pumped up there. They ran the line down as far as somewhere in the neighborhood of Bowling Green, Ohio. It was used beyond that before that along at 15 cents, but after that they came down in our way. It never was done at our station to take oil at 15 cents, only from the loading rack.

Q. How is that?—A. They never were down as far as our station with their pipe line until after, in 1900. It was loaded through a loading rack there. The Lima Oil Company loaded through a loading rack.

Q. When did you begin first to sell your oil to the Buckeye Pipe Line Company?—A. I think it was along in about March.

Q. Of what year?—A. It was in 1900.

Q. That is eight years ago?—A. No.

11742 Q. 1890?—A. 1890, that is what I mean. Excuse me.

Q. Then where you said 1900 before you meant 1890, did you?—A. Did I say 1900 before this?

Q. I think you did. You meant 1890, did you?—A. 1890, yes.

Q. Now, to what extent did the Buckeye buy and store oil?—A. Why, they stored it, a great many thousands—well, a great many millions of barrels, take it in the field there.

Q. Over what period of years did that continue?—A. It ran from along about 1889 to 1894.

Q. And they from time to time bought and built storage tanks and put the oil in them?—A. Yes, sir.

Q. Why did they buy and store?—A. Because they were producing it a great deal faster than I think they probably could get sale for it.

Mr. KELLOGG. What is the use of asking him about the amount of the oil that was stored, when there is an accurate statement of it, of the exact amount they bought and the exact amount they stored, and we stipulated it into the record?

Mr. MILLER. It was not to get that entirely. It was to get the order of events.

Mr. KELLOGG. If you want to get that accurately, why not stipulate it right into the record?

Mr. MILLER. I am willing to stipulate that into the record.

Mr. RUNYON. We are preparing tables now.

Mr. KELLOGG. What is the use of spending hours asking witnesses about what you can put in in five minutes from tables that are accurate?

11743 Mr. MILLER. Thank you, sir. That is, I have no doubt, a very deserved reflection.

Mr. KELLOGG. I think it is.

Q. Now, at the same time that this overproduction and storage took place, did the price of oil rise?—A. Yes, sir.

Q. And what has been the general trend of the price of crude oil?—A. Since just before 1890—in March—it raised. They raised it. It has been steadily raised. That is, it raised up and then fell back some, of course, but then it has been an advance from that time. In March, 1890, it went to 20 cents a barrel, and from that on it has kept advancing a little.

Q. What would you say, Mr. Watts, as to the prices paid by the Buckeye Company?—A. When they were getting it there in large quantities they paid a great deal more than I would want to pay for it, because there was so much of it wasted. It looked as if the people did not care anything about it.

Q. In other words, the prices they paid were high, were they?—A. Yes, sir; I considered them so.

Q. And favorable to the producer of the oil?—A. Yes, sir.

Q. A good deal of the oil ran away?—A. Yes, sir; a great deal of it.

Q. Produced in such quantities that the oil was being wasted locally on the ground there?—A. I have seen it running down in the

ditch, looked as if it was two or three inches deep, and all over the Portage River it would just be covered with oil running away to waste. They could not take care of it.

11744 Q. Did the pipe line company, in its purchase of oils, discriminate against any producer?—A. No, sir.

Q. Have they taken all of the oil that has been offered to them from anybody?—A. Well, since the first part there. They could not take it all, because they did not have the lines.

Q. Well, I say, as they got their lines in?—A. Yes, sir; since they got their lines in they have taken all that has been produced.

Q. Are there pipe lines besides those of the Buckeye Company extended into the North Lima field?—A. The Manhattan.

Q. Any others?—A. Well, yes; the Paragon.

Q. The Paragon?—A. Yes; the Paragon Oil Company and the Sun Oil Company.

Q. All portions of the North Lima field are accessible to the pipe lines of the independent companies, are they not?—A. Why——

Q. Take the Paragon, for instance.—A. Well, they don't run all over the northern part; that is, North Lima. They don't extend their lines to all parts of the field.

Q. I know they have not, but——A. They can; yes.

Q. They are within easy accessible distance?—A. Yes, sir.

Q. A few miles?—A. Yes, sir.

Q. You spoke of a change in the methods of refining oil. Where was that done, do you know, Mr. Watts?—A. Why, it was understood to be done at Lima.

Q. The Solar refinery there?—A. Yes, sir; the Solar refinery at Lima.

Q. Before that was accomplished you spoke of the oil

11745 smoking and having an odor. Do you know that of your own knowledge?—A. Yes, sir; I know we bought some Lima oil that was refined from the Lima crude. That was before 1890, and it was in that way at that time.

Q. Do you know what refinery that was refined in?—A. Well, it came from Lima. It was called Lima oil at the time.

Q. Have you ever seen any from any other refinery?—A. In the late day, do you mean?

Q. In the early day.—A. No; I can't say as I did.

Cross-examination by Mr. KELLOGG:

Q. Now, what independent pipe lines are there in the Lima-Indiana field?—A. In the Lima field?

Q. Yes.—A. Well, there is the Buckeye.

Q. That is Standard Oil, isn't it?—A. The Manhattan.

Q. That is Standard Oil, isn't it?—A. Not as I know of.

Q. Haven't you heard that it was?—A. I know; but what I hear may not be so.

Q. Isn't it generally reputed to be Standard Oil?

Mr. MILLER. I object to that.

A. No, sir; I don't think it is.

Q. Doesn't all its oil go right into the Buckeye pipe line?—A. That I do not know.

Q. You don't know anything about that?—A. No, sir.

Q. If it is a Standard Oil company are there any other independents in that——A. Yes; there is the Paragan Refining Company and the Sun Oil Company. They have their lines there.

11746 Q. Now, the Paragon and the Sun are very small lines, aren't they?—A. Well, they do quite a business. They take a great deal of oil.

Q. As compared with the Standard they are small, aren't they?—A. Yes; I suppose so.

Q. A very small percentage of the total product of the field? That is true, isn't it?—A. Yes.

Q. And they are only in a part of the field?—A. That is all.

Q. In what part?—A. The Paragon—well, they are in the northern part, and the Sun Oil Company are in the southern part of the field.

Q. And no other independents that you know of?—A. Outside of the Manhattan.

Q. You commenced to produce about 1886?—A. Yes, sir; in the latter part of 1886.

Q. The Manhattan was not in existence at that time?—A. No, sir.

Q. Did not start in until 1891 or 1892, did it?—A. I think in about 1891.

Q. So that from 1886 to 1891 there were no purchasers there except the Buckeye, were there?—A. After the first wells were drilled it was a year or so before there was any oil taken out of our place at all. It stood there and it was run into tanks, flowed out, and it was sold around in different places, and wasted.

11747 Q. In the opening up of a new field that is inevitable, isn't it? You find the oil before you build a pipe line?—A. Why, certainly.

Q. And some of it is wasted?—A. Yes, sir.

Q. And usually there is an intervening time before refineries are constructed and pipe lines built in to the wells?—A. Yes, sir.

Q. During that time the production is some of it wasted, isn't it?—A. It certainly is.

Q. That is inevitable, isn't it?—A. Well, yes.

Q. Now, you say you thought you got a good price for your oil. You didn't call 15 cents a good price, did you?—A. No; I didn't call it a very good price then, because I didn't know anything much about the oil business. I went into it as a new man, and we did not stop for the price. We kept on drilling. After we got started we got a line in to take care of our oil.

Q. In 1897 and '8 and 1900 that oil got up to nearly a dollar a barrel, didn't it?—A. Yes; it went above a dollar a barrel; somewhere along in that time it went to a dollar.

Q. Later, perhaps?—A. Yes, sir.

Q. So that, taking the oil at 15 cents and storing it even for ten years was pretty profitable, wasn't it, for a big concern?—A. Why, yes, I suppose that was profitable, but then at the time I don't suppose they knew it was going to $1.20.

Q. They had had experience in the Pennsylvania field, hadn't they, where it had done the same thing?—A. I know, but at the time they were doing this work they didn't know how to refine this oil, when they were getting this oil.

11748 Q. Are you an expert refiner?—A. No, I am not an expert refiner.

Q. Did you ever have any experience in refining?—A. I have had a little experience in refining turpentine. I have worked about two years at it.

Q. I mean crude petroleum.—A. I never have had in petroleum; no.

Q. A number of the independent refineries have started refineries and refined oil, haven't they?—A. Why, I think they have.

Q. The Manhattan started a refinery at Galatea?—A. Yes.

Q. And refined this oil, didn't it?—A. Yes, sir.

Q. The Paragon Oil Company refined this oil?—A. Yes, sir.

Q. The National Refining Company refined this oil?—A. The National Refining Company; I don't know.

Q. You don't know?—A. No, sir.

Q. There are several of them that have refined this oil and sold it, haven't they?—A. They have in late years, not at 15 cents. There was not anybody refined it then.

Q. There was not anybody refining it when it was 15 cents. They were simply buying it?—A. They were trying to refine it.

Q. The Standard Oil Company built a large refinery at Lima in 1889, didn't they?—A. I think it was 1889.

Q. 1888 or 1889, which was it?—A. It was along about that time.

Q. That is right in the Lima field, isn't it?—A. Yes, sir.

11749 Q. And that was built to refine Lima oil, wasn't it?—A. I suppose it was; yes, sir.

Q. They would not be very apt to expend a large amount of money to build a refinery there unless they believed they could refine it, would they?—A. Well, they might have thought so, and still they might not have been able to refine this certain kind of oil. It takes different ways to refine it.

Q. They did refine this kind of oil, didn't they?—A. Yes; after years.

Q. And other companies refined this kind of oil?—A. Yes; after years.

Q. And they refined it in Ohio?—A. Yes.

Q. And sold it there?—A. Yes.

Q. Have you bought oil of other refineries?—A. I have bought oil of other refineries.

Q. It is good oil, isn't it?—A. Yes, sir.

Q. And sold on the market there in competition with the Standard oil?—A. Yes, sir.

Q. Just as good as the Standard's, isn't it?—A. Yes, sir; just exactly; that is, if you get such a grade. There are different grades of oil.

Q. You can buy just as good grade oil made from the Lima field from the independent as you can from the Standard, can't you?—A. I think it is very nearly the same.

Q. So that it has turned out to be a very successful field, hasn't it?—A. Yes, sir.

By Mr. MILLER:

Q. What other refineries do you refer to, Mr. Watts?—
11750 A. The Paragon Refining Company, up there in Toledo, is the only one that I really referred to.

Q. Where is it situated?—A. At Toledo, Ohio.

Q. They get their oil from the northern end of the North Lima field, do they not?—A. Yes, sir.

Q. I suppose there were other refiners and other refineries in business in 1889 than the Standard? Other people were engaged in refining oil, were they not?—A. Why, there probably was.

Q. How long has the Paragon been in the refining business, refining North Lima oil?—A. I don't know as I can state exactly, but it has been a number of years.

Q. Were they in that business in the early 90's?—A. Well, I hardly think—it must have been along about 1894 to 1895, somewhere along about that time when they went into it there.

By Mr. KELLOGG:

Q. The Manhattan went in about 1891, didn't it?—A. Yes, sir.

Q. Built a refinery at Galatea?—A. At Galatea.

Q. They refined both South Lima and North Lima, didn't they?—A. I don't think they built their refinery in 1891. It must have been two or three years after that before they built a refinery there.

Q. Do you know the Craig Oil Company?—A. The Craig Oil Company; yes, I do.

Q. Where is their refinery?—A. I rather think they are in Toledo.

11751 Q. Where do they get their oil?—A. They ship a good deal of it in on cars. I see a great many of their cars.

Q. From the South Lima field?—A. It comes in over the——

Q. What?—A. No, I think mostly from North Lima; probably some, wherever their production is. They produce quite a good deal of oil.

Q. Do you know the Peerless?—A. The Peerless Oil Company—I do not.

By Mr. MILLER:

Q. Do you know, Mr. Watts, of any refineries successfully refining this North Lima oil prior to 1890 or prior to its successful refining by the Solar refinery at Lima?—A. No, sir; I do not.

11752 G. W. BARNES, called on behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Mr. MILLER:

Q. Where do you live, Mr. Barnes?—A. Muskogee, Oklahoma.

Q. And are you engaged in the producing of petroleum oil?—A. I am.

Q. In the Oklahoma field?—A. Yes, sir.

Q. How long have you been engaged out there in producing oil?—A. About five years.

Q. Is that from the first development of the field?—A. Nearly so.

Q. Which of the fields are you in down there?—A. We are in the Glenn Pool, mostly.

Q. What do you do with your oil?—A. We sell it to whomever we can, for the highest price.

Q. Do you sell it at the point of production or thereabouts?—A. Yes, sir.

Q. Are you one of the large producers?—A. I think so; yes, sir.

Q. Are your interests mainly in what is known as the Red Fork district?—A. South of it, in the Glenn Pool, eight miles.

Q. The Red Fork district is just north of Glenn Pool?—A. Yes, sir.

Q. Glenn Pool is the largest producing field, isn't it, in Oklahoma?—A. It is.

11753 Q. How long has that been going? When was it started?—A. In 1896.

Q. 1906?—A. That is right, 1906.

Q. And was in active operation in the middle of that year, the summer of that year?—A. Starting in in the fall—in the spring.

Q. And its production since then has been very large?—A. Very large.

Q. Reaching its high-water mark at what time?—A. 1907, I think; yes, in the spring.

Q. What was your first means of getting your oil out to market?—A. We sold it to the Prairie Oil Company. They shipped from Red Fork at that time. They used to run a tank line there, and we piped it into their cars.

Q. They had first the end of their pipe line at Red Fork?—A. Yes.

Q. About eight miles north of the Glenn Pool?—A. Yes, sir.

Q. And then did they extend to the Glenn Pool?—A. They did.

Q. When was that?—A. I think in 1906, as soon as the Glenn Pool field opened.

Q. Now, from the time the Prairie began to take oil there, did they buy oil that they stored?—A. I think so; yes, sir.

Q. Stored it in storage tanks erected by them?—A. Yes, sir; largely.

Q. In other words, they bought more oil than their pipe lines could carry away, did they?—A. They could not do that.

Q. How is that?—A. They could not buy more oil than their pipe lines would carry away, no.

11754 Q. What do you mean by that?—A. Why, it would be impossible.

Q. They could not buy more than——A. They stored the capacity of their line; that is what you mean, I suppose.

Q. They what?—A. They put in storage what they could not take away.

Q. Yes; that is what I mean.—A. That is right.

Q. They bought that which they put in storage, did they not?—A. Certainly.

Q. Were they able to take the entire amount of the production there?—A. No, sir.

Q. What did the producers do with the oil they could not dispose of?—A. They put it on the ground, and did the best they could.

Q. Stored it themselves to some extent?—A. Yes, sir; they did.

Q. As far as they had the means of doing so?—A. Yes, sir.

Q. Did other pipe lines come in there?—A. They did.

Q. Those were the ones known as the Texas and the Gulf pipe lines?—A. Yes, sir.

Q. When did they come into that?—A. In the forepart of 1897.

Q. They came into the Glenn Pool. Did they extend beyond that?—A. No, sir.

Q. Did they—I mean those two pipe line companies—buy oil before they extended their pipe lines into the Gleen Pool?—A. They did.

Q. For how long before?—A. Well, I presume six months. They shipped by tank car.

11755 Q. And then from the time that they came in there you had, or the producers there had, the Prairie and those two pipe lines, the Texas and the Gulf——A. Yes, sir.

Q. As outlets for their oil?—A. Yes, sir.

Q. Did the Texas and the Gulf take all your oil that the Prairie did not?—A. No, sir.

Q. The Texas and the Gulf, directly or through subsidiary or affiliated companies, were producers of oil, were they not?—A. Yes, sir; largely.

Q. And did they take their own oil that they produced in their own pipe lines?—A. Yes, sir.

Q. Have you or other producers there disposed of other oil than that which went to the Prairie or to the Texas and Gulf lines?—A. We have—I have.

Q. What has been your other means of disposing of your oil?—A. We have shipped by tank car.

Q. And where has that gone?—A. Gone to Texas.

Q. Why did you do that?—A. In order to find sale for it.

Q. Did you dispose of it there?—A. No, sir.

Q. Did you get offers for it there?—A. Yes, sir.

Q. I mean there in the Glenn Pool?—A. Yes, sir.

Q. I mean this oil that you shipped?—A. Yes, sir; we sold oil to go to Texas, quite a considerable, sold it anywhere we could.

11756 Q. Did you receive any offers for oil that you declined, from the pipe lines?—A. No, sir.

Q. I mean offers that you declined because of the price?—A. No, sir.

Q. Did you get offers of prices for oil so low that you would not accept them?—A. Yes; we have, from the Texas.

Q. What do you mean by Texas?—A. The Texas Company.

Q. That is, you have been offered prices that you would not accept?—A. Well, I can't say that; no. We put in bids, however, at prices that would not sell it, and of course when they would not take it, we naturally knew they must be buying it for less than we bid.

Q. What was their practice or method about that?—A. They sent out applications for proposals for the purchase of oil.

Q. And you and other shippers put in the prices at which you made a tender or offer of the oil——A. Yes, sir; we did.

Q. That they specified or required?—A. Yes, sir; we did.

Q. And you made offers of that kind that were not accepted, and so you took it that they bought the oil from somebody else at a cheaper price?—A. I think so; yes, sir.

Q. How low a price?—A. Well, we bid as low as 30 cents, and had it refused from the Texas Company.

Q. What was the gravity of that oil?—A. About 36.

Q. At the same time were you selling oil to the extent of their capacity to the Prairie Company?—A. Yes, sir.

Q. For what price?—A. 41 cents a barrel.

Q. You were getting 41 cents for the same grade of oil that you were offering to sell to the Texas Company for 30 cents?—A. Exactly.

Q. And that oil that you could not so sell, or some portions of it, you shipped out yourselves?—A. We did.

Q. Or sold, and it went out by tank cars?—A. Yes, sir.

11757 Q. Now, the oil that you send out for tank cars, how does the price you get for that compare with the price you get from the Prairie for the oil they take?—A. 9 cents a barrel less money.

Q. Does the Prairie pay the highest price of any purchaser?—A. The highest price; yes, sir.

Q. They pay cash for that, do they?—A. Cash.

Q. What do you say about their purchasing without discrimination from the different shippers?—A. I say that they do.

Q. They prorate?—A. Prorate.

Q. Give all the shippers the same chance?—A. Exactly.

Q. Including their own producing department?—A. I think so.

Q. In other words, you say that the Prairie does not, when they themselves have oil to ship of their own production, run that into their pipe lines and refuse to buy from other producers?—A. They do not; no.

Q. How much oil have you sold, can you tell, at less than the Prairie price to other purchasers?—A. How much?

Q. Yes. Can you give any figures on it?—A. We sold about two million barrels from that pool, and I presume—I am guessing now when I tell you that one-half of it has gone at a less price than the Standard pay.

Q. Well, is that guess an approximation?—A. It is a very good one, to the best of my knowledge.

Q. It is a very close approximation?—A. To the best of my knowledge. I could not tell you the number of barrels; it would be impossible.

11758 Q. And those prices that you say were less than the Prairie paid, ranged over what range of prices?—A. Ranged from 30 cents to 35.

Q. And on that oil what was the difference, do you know, in the aggregate?—A. I have estimated that we lost over $115,000 difference between what we should have received or could have received from the Standard and what was received from the outside. I have figures to prove that.

Q. That is, if the Prairie had been taking all this oil?—A. Yes; at the price they were paying it would amount to $115,000 and a little better.

Q. That covered what period of time?—A. Two years.

Q. Have the Texas Company or the Gulf Pipe Line Company, either of them, posted market quotations?—A. I am under the impression that the Gulf Pipe Line posts a price, which is 35 cents.

Q. And that is 35 cents for what grade of oil?—A. For the highest grade; 36 about.

Q. Is that for the same grade that the Prairie pays 41?—A. Identically.

Q. In offering that, do the Gulf Line offer to take all that is offered?—A. Do they offer?

Q. Yes.—A. They don't take any except their own; not a barrel to-day.

Q. You have sold, yourself, to these pipe line companies, have you?—A. I have; yes, sir.

Q. Do you mean to say that the Gulf Pipe Line has sub-
11759 stantially discontinued?—A. Discontinued running oil from any independent producer in that field.

Q. You did sell them, did you?—A. We sold them at their solicitation. They came to me and I took away one lease from the Prairie Oil Company and gave to them, supposing that they would take care of us, as we call it out there; that is, run our oil, you understand—and we run them considerable oil, and without an hour's notice they disconnected their pipes from our tanks, and then I had to get on my hands and knees to get back again.

Q. When was that?—A. That was in last June.

Q. Since then have they taken your oil?—A. Yes, sir.

Q. Does the Texas or Gulf line place any limit on the gravity of the oil that they take?—A. No, sir.

Q. I have a memorandum here that they do not take any heavy oil, below 30; is that right?—A. Well, there is none in the Glenn Pool that they could take.

Q. Oh, I see. Do you know the total capacity of the pipe lines of the Gulf and Texas companies?—A. About 32,000 barrels, the two lines.

Q. And divided?—A. 16,000 apiece; they might run 18,000 apiece, but they are probably running 16,000.

Q. And how does that compare with the production of their property?—A. The Texas, to the best of my knowledge, are producing about 2,500 barrels of oil of their own; the Gulf Pipe Line Company are producing the capacity of their line.

Q. Then, the Texas must be taking oil from other producers?—A. Yes, sir; they are.

11760 Q. But are paying about what price for it?—A. The Texas are buying oil, I think, at about 30 cents; I know we are selling them at that. The Gulf are paying 35 and the Prairie Oil Company 41.

Q. That is for the same grade of oil?—A. For the same grade of oil.

Q. What is your daily production?—A. Nearly 6,000 barrels.

Q. What is the production of the Oklahoma fields?—A. About 150,000 barrels per day.

Q. What would you say as to whether the price that the Prairie Oil & Gas Company pays for oil in your country is a fair and reasonable price?—A. I think, everything considered, it is very fair. We have had a great deal to contend with.

Q. And is it a profitable price for the producer?—A. Well, we wish it was more.

Q. Well, that is natural enough. What would you say as to whether it was profitable?—A. I think it is a fair price, everything considered; yes, sir.

Q. Is the capacity of the pipe lines that are in your territory adequate to take care of all the oil that is produced?—A. They are not; no, sir. That is exactly what we need—more pipe lines.

Q. You were engaged in oil producing before you went to Oklahoma, weren't you?—A. Yes, sir.

Q. In what fields?—A. In the Lima field; started in in 1888.

Q. The Lima field, does that include Indiana—that general name of Lima?—A. Well, hardly; there is North and South Lima.

11761 Indiana would be considered, I think, a field by itself.

Q. Have you been interested in the Indiana field?—A. I have.

Q. While you were operating in the North Lima field were the pipe lines in there?—A. Yes, sir.

Q. What lines?—A. The Paragon, the Sun Oil Company, the Craig Oil Company, and the Peerless had a refinery at Findlay, Ohio.

Q. And the Buckeye?—A. And the Buckeye; yes, sir. No; the Buckeye is another line.

Q. I say was the Buckeye in there also?—A. The Buckeye; that was supposed to be the Standard.

Q. How early were the independent pipe lines—I mean by that other than the Buckeye—in the North Lima field?—A. Well, that is a pretty hard one. I don't know when the Paragon built their refinery. That was the first one built in Toledo. At a guess I should say 1892.

Q. And where did they run in that field?—A. They came down through the oil country in the northern Lima field; I think they came down as far as Findlay, but they picked their oil up in the northern part of the field, what is known as the North Lima field. They did not go any farther than necessary for their oil.

Q. Now, you divide the Lima field into North and South?—A. Yes, sir.

Q. That is usually done?—A. Yes, sir.

Q. What space is there between the boundaries of those fields? What divides the fields?—A. It is an imaginary line. I can't
11762 give you the number of the township line.

Q. One of the fields runs off into the other?—A. About six miles north of Findlay, it strikes me, if my memory serves me right. It runs north and south.

Q. Now, during the early years of production in the Lima field was the oil used for refinery purposes?—A. No, sir.

Q. For what was it used?—A. Used for fuel.

Q. About what time was it successfully refined?—A. I think about 1890.

Q. And do you know by what refinery?—A. It seems to me that it was the Solar Refinery, at Lima. Either 1890 or 1891; I would not say what year they began operation.

Q. Did the successful refining of that oil or the establishment of the process, the discovery of the process and the successful refining of it, have anything to do with the value or the market price of the oil?—A. Oh, decidedly; yes, sir.

Q. What effect did it have?—A. We sold oil at $1.27 a barrel.

Q. In other words, that increased the demand and increased the value, did it?—A. Oh, yes; very much.

Q. It opened up a field for the use of the oil?—A. Very much.

A. And from that time on the oil was taken for refinery purposes, was it?—A. Yes, sir; largely.

Q. Do you know of the oils being purchased and stored?—A. Oh, yes. I think I am safe in stating that the Buckeye had nearly one thousand tanks in the State of Ohio, 35,000-barrel tanks.

11763 Q. Were those tanks for temporary storage?—A. For storage.

Q. As a matter of fact, was the oil kept permanently there?—A. Permanently, yes.

Q. That is, so long as there was enough fresh oil produced to supply the demand, the oil was left in the tanks in store?—A. Exactly.

Q. Then, what was the occasion of this storage? Why store oil?—A. There was more oil than could possibly be handled.

Q. More oil produced than could possibly be taken care of, or refined, or marketed?—A. Oh, yes; very much more.

Q. The supply was more than the demand, is that it?—A. Exactly.

Q. And the surplus of supply over the demand was so stored, was it?—A. Certainly.

Q. This oil was bought by the Buckeye Pipe Line Company and stored at its own expense, was it?—A. Yes, sir.

Q. And notwithstanding this excessive production, so excessive that large amounts had to be stored, the price of this oil rose?—A. It did.

Q. And that price was paid by the Buckeye Pipe Line Company for the oil?—A. Yes, sir.

Q. Was the North and South Lima field accessible to the independent pipe line?—A. Oh, yes.

Q. And that ran into at least the North Lima field?—A. They did, and there was at least one independent line in the South Lima field, that comes to me now, the old Eagle Refining Company. It
11764 was there when I came to Lima in 1888. They had a pipe line in the South Lima field.

Q. And if the owners of those pipe lines had seen fit to get into any portion of the North or South Lima field, they could do so with the extension of their lines for a few miles?—A. Nothing to hinder them.

Q. And what would you say, Mr. Barnes, as to the prices that were paid by the Buckeye for crude oil to the producers of oil in the North and South Lima fields, whether they were fair and just and reasonable?—A. We had an ocean of oil there, and they paid 15 cents a barrel for it.

Q. What is that?—A. They paid 15 cents a barrel for it, and it was the best we could do. However, some of us—I for one started a tank line and sold oil to the Middletown Paper Company of Dayton, of Middletown, Ohio. We had to run a tank line there and run it across the river and competed with soft coal for about two years. We sold millions of barrels of oil in Middletown.

Q. What price did you get for it?—A. It strikes me it was 19 or 20 cents a barrel, possibly. It was burned up as against soft coal in the paper mills at that place. We had to do it. There was too much oil. We had to find a vent.

Q. Now, from year to year after that, when the Buckeye Pipe Line got in there and bought oil and stored oil, what would you say as to whether they paid fair and reasonable prices for the crude oil?—A. They have always paid fair prices.

Q. And when this oil became useful for refining purposes, what would you say as to whether the price the producers re-
11765 ceived for the oil was a profitable price?—A. I should say so.

Cross-examination by Mr. KELLOGG:

Q. In the Lima field who fixed the prices of oil?—A. The Buckeye Pipe Line Company.

Q. Joseph Seep? The Seep Agency, I mean?—A. I think so; yes, sir.

Q. You did not have anything to say about that, did you?—A. Certainly not.

Q. You took just what they offered you?—A. Had to.

Q. They always fixed the prices of oil in that field, didn't they?—A. Sure.

Q. From time to time?—A. Yes, sir.

Q. Whatever they pleased?—A. Certainly.

Q. And there was practically no competition, was there?—A. Practically no competition.

Q. In the early days there was none whatever, was there?—A. There was, as I have stated.

Q. Well, what?—A. In 1888 the Eagle had a line.

Q. That sold out to the Standard, didn't it?—A. I don't know, sir.

Q. Don't you know that the Eagle Pipe Line afterwards became a part of the——?—A. No, I don't. Do you?

Q. I asked you what became of it.—A. I don't know, sir.

Q. Disappeared, did it?—A. I have answered you.

11766 Q. You don't know anything about what became of it?—A. No, sir.

Q. Where did it run from?—A. Ran out into the field there where they produced oil.

Q. Where from?—A. From Lima.

Q. How big a pipe line was it?—A. I think it was a 4-inch line, if my recollection is correct.

Q. When was it built?—A. It must have been built about 1887.

Q. By whom?—A. The Eagle Company, I think, a Cleveland concern.

Q. Who were the men?—A. I don't know who they were. I never made it my business to find out.

Q. When did it cease doing business?—A. I don't know, sir.

Q. Did it ever commence?—A. They tried to commence, yes; commenced.

Q. What efforts did they make to try?—A. They had quite a refinery at Lima.

Q. At Lima?—A. Yes, sir.

Q. How long was it in existence?—A. I don't know, sir.

Q. Did it ever refine oil?—A. It did.

Q. How long?—A. All the time I was there in Lima, which was about three years.

Q. About three years?—A. Yes, sir.

Q. You don't know what became of it?—A. I do not.

Q. When did you leave Lima?—A. I left Lima in 1892.

Mr. MILLER. You mean 1892 or 1902?

11767 WITNESS. 1892, and went to Toledo, Ohio.

Q. Was this Eagle doing business when you left?—A. I don't know.

Q. How long before you left did you know anything about it?—A. I have seen the refinery; that is all I do know about it.

Q. You don't know that they did not sell out to the Standard Oil or any of the Standard companies?—A. No, sir; I don't know anything about it.

Q. Did you ever hear about it?—A. I don't think I ever heard.

Q. Was there any other competition in that field?—A. In the South Lima?

Q. Yes.—A. No, sir.

Q. There never has been, has there?—A. Not to my knowledge.

Q. In the North Lima field the only competitors, you say, were the Paragon and what other company?—A. The Sun Oil Company, and the Craig Oil Company.

Q. The Sun is a very small refinery, isn't it?—A. No, sir; they are pretty large refiners. The Paragon is a large refiner.

Q. How large a pipe line has it got?—A. I don't know. They refine a good deal of oil; I should say they refine at least a thousand barrels a day.

Q. As compared with the Buckeye's production it is very small, isn't it?—A. Oh, I don't know anything about comparison. You can't prove anything of that kind by me, sir.

11768 Q. You don't call a pipe line production of a thousand barrels a day a big one, do you?—A. I call a thousand barrels a day refinery a pretty big refinery.

Q. It isn't much of a refinery compared with Whiting, is it?—A. I have never been in Whiting.

Q. You don't know anything about Whiting?—A. No, sir.

Q. You have had some experience in oil fields. Your experience is that in the first opening up of an oil field, before the pipe lines get in there and in position to take care of the oil, there is more or less waste and overproduction, isn't there?—A. Very naturally; yes, sir.

Q. And always an overproduction in the early years of the field, isn't there?—A. Usually; yes, sir.

Q. And it is usual for the pipe-line company or the Standard Oil Company, or whoever does it, to buy up the surplus and store it, isn't it?—A. I should say so.

Q. That was the experience in the Lima field, wasn't it?—A. It was.

Q. That was the experience in the Indiana field, wasn't it?—A. It was.

Q. That has been the experience in the Illinois field, hasn't it?—A. I don't know, sir.

Q. That was the experience in Kansas, wasn't it?—A. I don't know.

Q. That was the experience in Oklahoma, wasn't it?—A. It was.

Q. How long have you lived in Oklahoma?—A. Five years.

11769 Q. You never lived in Kansas?—A. No, sir. Not guilty.

Q. Not guilty. All right. What's the matter with Kansas?
(The witness laughs.)
Q. Now, you know something about the Kansas oil fields, don't you?—A. Very little; no.
Q. You know there is oil in Kansas, don't you?—A. Well, there used to be some oil there. I think they have some yet.
Q. The Prairie Oil & Gas Company buys oil all through the Kansas oil field, doesn't it?—A. I don't know, sir.
Q. Have you never heard?—A. I don't know that they buy a barrel in Kansas.
Q. Does the Gulf Pipe Line have a line from Oklahoma to Texas?—A. Yes, sir.
Q. How do you know?—A. Because I have seen it.
Q. The whole length of it?—A. No.
Q. Well, you know it from general information, don't you?—A. I sell them oil.
Q. Then, you know from general information? Now, don't you know from general information that the Standard Oil Company or the Prairie Oil & Gas Company buy a large amount of production in Kansas?—A. I think they do.
Q. Well, that is all I want to know.
Mr. MILLER. I object to it. I object to this as not cross-examination and as immaterial and irrelevant.
Q. Now, you were living in Oklahoma at the time of this agitation over the oil fields in Kansas against the Prairie Oil & Gas Company, weren't you?—A. I was down there; I have been
11770 there for five years.
Q. You heard more or less about it, didn't you?—A. No, I didn't make it my business to interest myself in anything of the kind. I am too busy. I attend to my own business.
Q. I didn't ask you whether you made it your business, Mr. Barnes; I ask you if you heard about it.—A. Naturally I saw something about it in the newspapers. Anybody would that can read.
Q. Certainly. I supposed everybody did do that.—A. Yes.
Q. You heard more or less about it?—A. No; not anything of any importance at all.
Q. The prices paid for oil are published by various journals and papers, are they not?—A. Yes, sir.
Q. What are they?—A. Oh, several papers. The Oil City Derrick publishes a good deal of the details.
Q. That is taken generally by the oil producers?—A. Yes, sir; I think so, more than any other paper.
Q. They publish the midcontinent prices?—A. They do, yes, sir. And there is the Oil Investors' Journal, of Beaumont, Texas, a very good paper.
Q. Generally the producers take papers showing the prices of oil in the various fields, don't they?—A. Yes.
Q. You do, don't you?—A. Yes, sir.
Q. You keep posted on it?—A. I try to.

Q. What price is the Prairie Oil & Gas Company paying for oil in Kansas?—A. I couldn't tell you.

Q. You don't know anything about it?—A. No.

Q. Never looked to see?—A. Oh, I may have seen, but it doesn't occur to me.

11771 Mr. MILLER. I object to that. I should think the best evidence of what a newspaper quoted as being the prices at a certain date would be the paper itself.

Mr. KELLOGG. I would not be surprised.

Q. What do you take these papers for—to keep track of the prices?—A. Oh, not especially, no sir; I take papers the same as any other man takes papers.

Q. I know, but you don't take the Oil City Derrick for general news, do you?—A. I have taken it for twenty years, and I take it because I want to.

Q. Those papers you refer to publish the prices of oil in all the districts, don't they?—A. They do, yes, sir.

Q. Don't you know that the price of crude oil of 32 degrees or higher in Kansas is substantially the same as it is in Oklahoma?—A. I don't know that.

Q. You don't know anything about it?—A. No.

Q. You have never looked at the prices?—A. I have.

Q. When did you last look at them?—A. I don't remember.

Q. Did you ever notice any variation?—A. I can't say that I did.

Q. The Gulf and the Texas companies have no pipe lines in Kansas, have they?—A. No, sir.

Q. They only reach the Gleen Pool in Oklahoma?—A. That is all.

Q. Is that the southern part of the territory?—A. No, sir.

Q. Northern part?—A. It is in the centre, I should say.

11772 Q. While the Standard's pipe line, the Prairie Oil & Gas, extends through the Kansas field?—A. I presume so.

Q. That is your understanding, isn't it?—A. Oh, I think so; yes.

Q. Now, do you think it is a matter of pure generosity that the Prairie Oil & Gas Company give you 41 cents, as against 35 or 30 by the other companies?—A. Pure generosity?

Q. Yes.—A. I don't know how they regard that.

Q. What is your opinion about it?—A. I think it is a fair price for oil.

Q. I am not disputing that. I am asking you——A. We are satisfied.

Q. If you think they are giving you 41 cents out of pure generosity?—A. Well, I don't see much in that sort of a question, anyway.

Q. Well, I may; that is the difference.

Mr. MILLER. Suppose you explain what it is.

WITNESS. In fact this whole lawsuit is an opera bouffe lawsuit.

Q. All right. Isn't it a fact, Mr. Barnes, that the Prairie Oil & Gas Company were charged very seriously with discrimination prior to 1905, or about 1905, and that they are paying the same price in

Oklahoma that they are paying in Kansas now because they are afraid to do anything else?—A. I don't know.

Q. You don't know anything about it?—A. No, sir.

Q. You don't? Very well.

Mr. MILLER. Do you?

Mr. KELLOGG. Yes, sir; I do.

11773 Mr. MILLER. Suppose you take the witness stand and tell us about it. I want to cross-examine you one of these days.

Mr. KELLOGG. You may have the pleasure, perhaps.

Mr. MILLER. Well, I think I will.

Q. Mr. Barnes, when did the Gulf and the Texas come into your——A. It strikes me about June, 1907.

Q. 1907?—A. I think that is right.

Q. Is there any competition between the Gulf Company, the Texas Company, and the Prairie Oil & Gas Company?—A. I am unable to state.

Q. Have you ever been able to discover any?—A. I am too busy attending to my own business.

Q. Do you know whether there is any competition?—A. I do not.

Q. Have you ever seen any competition?—A. I know this, that after we sold the Gulf oil, as I have before stated, I got a cut of 6 cents a barrel, that is what they have done to me—the Gulf Pipe Line Company—the supposed independent company. I can testify to that.

Q. You have never found any competition, have you, Mr. Barnes, between the Gulf, the Texas Company, and the Prairie Oil & Gas?—A. We naturally have done the best we could to get the highest price.

Q. Now, Mr. Barnes, you know what competition is, don't you?—A. Well, I don't know.

Q. You don't know. If you swear you don't know, I want to know that. Do you or do you not know what competition is?—A. Why, of course I do.

11774 Q. Very well. Have you seen any competition or do you know of any competition between the Gulf Company and the Texas Company and the Prairie Oil & Gas Company?—A. I haven't looked for any.

Q. Well, have you ever seen any?—A. If I haven't looked for it I couldn't see it.

Q. Very well. You don't know of any, do you?—A. I don't know of any.

Q. Do you know of any competition that has ever taken place there in that territory between the Gulf and the Texas and the Prairie Oil & Gas Company?—A. No; but my impression is there is.

Q. Very well.—A. That is my guess.

Q. That is an impression? You don't know of any competition?—A. I positively do not.

Q. Who asked you to come up here and testify?—A. Why, Mr. Runyon.

Q. Counsel for the Standard Oil here, the attorney?—A. He did; yes, sir.

Q. You sold most of your production prior to June, 1907, to the Prairie Oil & Gas Company?—A. No; I sold it anywhere I could.

Q. Then, you have not sold most of it to the Prairie Oil & Gas?—A. I should say not. The last twenty years probably half of it.

Q. The last twenty years probably half of it?—A. Yes, sir.

Q. In the Oklahoma field to whom did you sell prior to the time you sold to the Gulf and the Texas?—A. We sold to the
11775 Prairie Oil Company.

Q. Anybody else?—A. No, sir.

Q. Then, you did in the Oklahoma field sell most of your oil prior to that time to the Prairie Oil & Gas Company?—A. We did. They were the only people buying it. We couldn't sell it to anybody else.

Q. There are only three buyers, practically, in your field, are there?—A. Well, we have managed to find five.

Q. Who are the other two?—A. We are shipping to the Texas Pacific some oil, and we are also selling oil in Texas by tank cars.

Q. Crude oil for fuel, you mean?—A. Yes, sir; for fuel and also for refining.

Q. To whom are you selling in Texas?—A. To the Security Oil Company.

Q. That is Standard Oil, isn't it?—A. I don't know.

Q. Anybody else you sold to down there?—A. No, sir.

Q. You sell some crude oil for fuel, don't you?—A. Yes, sir; we have a contract with the Texas Pacific Railroad Company.

Q. Do you pay the freight or do they?—A. They.

Q. They pay the freight?—A. Yes, sir.

Q. They take it from the well?—A. Yes, sir.

Q. Do you ship any crude oil where you pay the freight?—A. No, sir.

Q. Have you ever?—A. No, sir.

Q. What weight do they charge per gallon for crude oil?—A. I know the rate to Texas by the barrel; I can't give it to
11776 you by the gallon.

Q. I mean what weight.—A. Oh, what weight?

Q. 7.4 pounds to the gallon?—A. I think that is correct; yes, sir.

Q. The fuel oil which comes from the refinery only pays at the rate of 6.4 pounds, doesn't it?—A. I don't know, sir.

Q. You have never had any experience in that line?—A. Certainly not.

Q. Do you know Mr. Barnsdall?—A. I do.

Q. How long have you known him?—A. Twenty years.

Q. Where does he live?

Mr. MILLER. I object to this as not proper cross-examination, no proper part of the cross-examination, and if it has any place in the case, it is the Government's evidence in chief. If counsel want it, they can go into it in their case in chief.

A. It doesn't make any difference; I don't know where he lives.

Q. You don't know where he lives?

Mr. MILLER. Wait a moment. I want to get my objection in.

Mr. KELLOGG. Certainly; get in your objection.

Mr. MILLER. As irrelevant and immaterial.

Q. Is he a large producer in the Indian Territory?—A. I don't know.

Mr. MILLER. The same objection may go to all of this?

Mr. KELLOGG. Yes; the same objection may go to all of this.

Q. Do you know the firm of Barnsdall & Glenn?—A. I have heard there is such a firm.

Q. Is Glenn Pool named after this Mr. Glenn?—A. No, sir; I think not; it is another Glenn.

11777 Q. Have you heard of the Barnsdall Oil Company?—A. I have.

Q. The Indian Territory Illuminating Oil Company?—A. I have heard of it.

Q. Is Mr. T. N. Barnsdall connected with those companies?—A. I don't know, sir.

Q. You have known him for twenty years?—A. Yes, sir.

Q. But don't know where he lives?—A. I don't know where he lives.

Q. Known him in a business way?—A. Never did much business with him.

Q. You don't know whether or not his companies are producing crude oil to a large extent in Oklahoma?—A. I do not. I don't know it. My impression is they are, of course.

Q. Do you know whether this Mr. T. N. Barnsdall is connected with the Standard Oil in any way?—A. I do not.

Q. You don't know anything about it?—A. I do not.

Mr. MILLER. Isn't that enough on Barnsdall, then, if he doesn't know anything about it?

Mr. KELLOGG. I would like to find out from somebody that does. We have been chasing——

Mr. MILLER. Are you going to do it on cross-examination?

Mr. KELLOGG. I am going to do it in every way I can until I locate that 7½ million dollars.

Q. In the Lima field during the time from the discovery of that field down to 1893 and 1894 was the Standard Oil Company or the Standard Oil subsidiary companies buying up a large amount of production?—A. Yes, sir; I think so.

11778 Q. During this time of cheap oil they were buying up or leasing wells, were they?—A. Yes.

Q. Very large producers themselves in the field during that time, weren't they?—A. Yes, sir.

Q. You do not pretend to say that 15 cents was a profitable and a fair price for oil at that time, do you?—A. I don't say that.

Q. Do you?—A. I have not said that.

Q. I misunderstood you, then. It was not, was it?—A. It was the best we could do.

Q. The best you could do, but was it a fair price?—A. Well, we made money at it.

Q. You did make money?—A. Yes, sir.

Q. Do you know anything about the percentage of business that the Prairie Oil & Gas Company does; that is, the amount of oil they take as compared with the others in the midcontinent field?—A. Do I know?

Q. Yes.—A. I do not know.

Q. Is there more or less risk about the drilling of wells and opening up?—A. Very great risk.

Q. The production of oil, then, is accompanied with a great deal of risk?—A. Very great.

Q. And many producers lose money in it?—A. They do.

Q. So you think the producers ought to make pretty good money?—A. They should.

Q. You think 41 cents is a good price to cover all the risks of the business?—A. I think so just now, on account of the remote distance, etc. I think it is fair.

11779 Q. Do you have any idea what it costs to pump oil from the midcontinent field to Whiting, Indiana?—A. No, sir.

Q. You do not know, considering the price of refined oil and the cost of transportation, whether that is a fair price or not, do you?—A. Well, we are satisfied.

Q. I say, considering the cost of transportation and the value of the product when produced, you don't know whether or not that is a fair price, do you?—A. I don't know that I have any means of knowing.

Q. You don't know, then, do you?—A. Well, I should say not.

Q. The only idea you have got is, that is all you can get?—A. That is the point, exactly.

Q. Being all you can get, your are obliged to be satisfied with it?—A. Certainly.

Q. That is it. For all you know they may be making enormous profits on that oil?—A. I hope they are.

Q. Well, I guess they are.—A. I like to see everybody make money; I like to make money, too.

By Mr. MILLER:

Q. And you can make money on producing oil and selling it in Oklahoma at 41 cents a barrel?—A. Yes, sir; I would be very glad to have the opportunity of selling our production at that. The trouble is we have not been able to do that on account of the lack of pipe lines in our country.

Q. How do you compare in the amount of your production with other producers? Are you the largest or one of the largest producers in the field?—A. I am unable to tell you, sir, but we are con-

11780 sidered to be large producers. I think we produce as much as the Standard Oil Company does in Oklahoma and Kansas.

Q. If you and other producers could dispose of all your oil at the price or on the terms that you are disposing of what you are to the

Prairie Oil & Gas Company, what would be the effect, if anything, upon production in your country down there?—A. It would be very much increased and a much better state of affairs. It has been distressing the way it has been. It has been fairly tragic what we have endured for the past two years.

Q. It would stimulate production, would it?—A. It certainly would.

Q. What would be the effect on the value of your oil property?—A. It would nearly double our oil property in value.

Q. Does all of that tend to show that the price of 41 cents is a fair price, all of those facts, do you think?—A. I think so.

Q. Now, during all the time that the Lima oil was increasing in price the Buckeye Pipe Line Company was buying and storing oil, was it?—A. They were.

Q. The producers were producing oil in excess of the demand?—A. Yes, sir.

Q. And this company was buying it and storing it?—A. Yes, sir.

Q. And you know the effect on oil of storing it, don't you?—A. It deteriorates rapidly.

Q. In the Oklahoma field, where the price of oil was going down from the former high price of 40 cents, the Prairie Oil & Gas Company was storing oil, wasn't it?—A. Yes.

11781 Q. Buying the oil, paying the price and storing it?—A. Yes. They had something like 40 millions of storage.

Mr. MILLER. I suppose Brother Kellogg would draw an argument both ways on that situation.

By Mr. KELLOGG:

Q. You think it would be better, then, if there were no other pipe lines in your country except the Standard Oil?—A. No; I do not; I didn't say so.

Q. You think it is better to have competition, don't you?—A. I certainly do. We have not got it, however.

Q. You have not got it?—A. No, sir.

Q. That is what I thought.—A. What we have now is a myth.

Q. That is it, exactly. You haven't got any competition at all, have you?—A. By supposed independent companies.

Q. They don't compete? They have got some understanding, haven't they, as to prices?—A. I don't know. It is rotten the way they are treating us; I know that.

Q. There is absolutely no competition between the Gulf Company, is there——A. I wouldn't say.

Q. And the Standard Oil Company?—A. I know I have lost money by them.

Q. Isn't it a fact that the price of 45 cents a barrel for the transportation of oil from Oklahoma to the Gulf is prohibitive?—A. It is, and we can ship oil by cars——

Q. Cheaper?—A. 5 cents a barrel less money than we can send it by the pipe line. It is a travesty, that is all, at present.

11782 Q. The tariff prices of that pipe line are absolutely prohibitive, are they not?—A. Prohibitive, absolutely.

Q. And the result is there is not any competition in your field at all, is there?—A. Call it what you may, we are suffering.

Q. Yes, sir?—A. We need more pipe lines.

Mr. MILLER. To take care of your surplus oil?

WITNESS. We certainly do. I believe that there has been two million dollars lost in the Glenn Pool alone by loss of oil and evaporation. The producers and the Indians who own this oil, that is, their proportion of it, have been wronged simply because they could not have their oil taken care of.

Q. Yes, sir.—A. I think two millions would be a low figure for the oil that has gone down the creeks and has evaporated in the sun for the lack of pipe-line facilities.

Q. They are not building and you are not able to build the pipe lines, are you?—A. Certainly not. I wish we were.

Q. And the other companies have not done it?—A. The other companies have built——

Q. Some pipe lines?—A. Let me tell you that the companies in there to-day are buying property; they are absorbing this property at low prices, very low prices, and they take care of their own oil, and the man that they are neighbor with, next to their line, he is being milked.

Mr. MILLER. What companies are you referring to?

WITNESS. The Gulf and the Texas Pipe Line companies.

Q. Do you refer to the Prairie?—A. No, sir.

Q. How do you know the Prairie is not buying through
11783 other companies?—A. Well, I couldn't swear that I knew.

Q. You don't know anything about it, do you?—A. Well, just a little.

Q. Do you know that the Prairie Oil & Gas Company or the Standard Oil is not back of Mr. Barnsdale in all his purchases there?—A. I don't know anything about that.

Q. Do you know that it appears in this case that the Standard Oil have got a claim against him of 7½ million dollars——A. I don't know it.

Q. That they loaned him, and never have collected any interest on, and that the treasurer of their company swore that he didn't know what it was for? Do you know that?—A. I do not.

Q. So you don't know that Mr. Barnsdall, in the Oklahoma territory, represents the Standard Oil?—A. I do not.

Q. You don't know that he does not?

Mr. MILLER. Do you?

Q. You don't know that he does not, do you?—A. I don't know that he does not.

Mr. KELLOGG. No; but I would like to get Mr. Barnsdall or somebody in the Standard Oil on the stand that knows about it.

Mr. MILLER. All right. You have a lot of witnesses from the Standard Oil. Why not call them?

Mr. KELLOGG. I would like to get hold of Mr. Barnsdall.

Mr. MILLER. If I can do anything to help you, call on me.

Mr. KELLOGG. It is a good deal easier said than done. I have chased one of your witnesses all over New York and into
11784 Canada and couldn't get him.

Mr. MILLER. He is like Mrs. Harris. I don't think there is no Mr. Barnsdall.

(An adjournment was here taken until the morning of Wednesday, November 11, 1908, at 10.30.)

11785 ROOM 515, CUSTOM-HOUSE,
New York City, Wednesday, November 11, 1908—10.30 a. m.

The hearing was resumed before the special examiner, Hon. Franklin Ferriss, at the above time and place.

Present: On behalf of the petitioner, Mr. Frank B. Kellogg, Mr. Charles B. Morrison. On behalf of the defendants, Mr. John S. Miller, Mr. W. Cleveland Runyon.

G. W. BARNES, recalled and his examination resumed, testified as follows:

Mr. KELLOGG. I don't think I have any further questions to ask Mr. Barnes.

Redirect examination by Mr. MILLER:

Q. Mr. Barnes, you were asked upon cross-examination yesterday about the tariff rate on oil over the pipe lines to the Gulf.—A. Yes, sir.

Q. That referred entirely to the pipe lines of the Texas and Gulf companies, did it not?—A. It did.

Q. Did those companies ever carry any oil, to your knowledge, for other people upon their tariff as common carriers?—A. No, sir.

Q. They never did?—A. Not to my knowledge.

Q. What do you say as to whether the conduct of the pipe-line business by pipe-line companies as common carriers is feasible or practicable or not?—A. My judgment is it is not.

11786 Mr. KELLOGG. What is that?

WITNESS. I say in my judgment it is not.

Q. It is not feasible or practical for pipe-line companies to carry oil as common carriers for other people?—A. I don't believe it is feasible. I believe it is chimerical.

Q. How long have you been in the oil business?—A. 21 years.

Q. And you have been out there in that territory since its first development, substantially?—A. Substantially.

Q. Now, are the different grades of oil out there of different values?—A. They certainly are.

Q. And the grades run from what extremes?—A. From 41 in the Muskogee field to as low as—you now say Oklahoma, do you?

Q. Yes.—A. I think it gets as low as 28 in what is known as the Shallow Sand field. It gets away down. I would not testify positively as to that. I know it is as high as 44 in the Muskogee field.

Q. What is it in the Glenn Pool?—A. It is strong 36.

Q. You are speaking of degrees of gravity?—A. I am.

Q. Or what are called degrees Baumé?—A. Yes, sir.

Q. And is there a decided difference in the actual value of the oils of the different degrees of gravity?—A. Yes, sir; a very great difference in value.

Q. Then, if an oil of, say, 36 degrees or 32 degrees was mixed with oil of much lower gravity, what would be the effect upon the higher grade oils?—A. It would lower the value of it, naturally.

11787 Q. Do you know whether or not the Prairie Oil & Gas Company have made efforts to put in other pipe lines into the Oklahoma field?—A. I do.

Q. What is the fact about that, as to whether they have or not?—A. I believe they started to put in a pipe line to the Glenn Pool, and through some adverse rules they tore it up again. That is the general impression there. I have no—that was done.

Mr. MILLER. At this point I offer in evidence Rule 19 of the "Regulations prescribed by the Secretary of the Interior in accordance with the provisions of the act of March 11, 1904 (33 Stat. L., 65), governing the granting of rights of way for the construction, operation, and maintenance of pipe lines, pumping stations, and storage tanks for the transportation and storing of oil through lands in Oklahoma and Indian territories," dated December 21, 1906, Department of the Interior, Office of Indian Affairs.

Mr. KELLOGG. I would like to have all these rules go in.

Mr. MILLER. Well, you are entitled to that.

Mr. KELLOGG. And with the understanding that all of the rules (this pamphlet contains them) shall go in——

Mr. MILLER. I will let so much of the rest go in as you want.

Mr. RUNYON. That is all right.

Mr. MILLER. That is, down to the signature of the Commissioner.

Mr. KELLOGG. Very well.

11788 Mr. MILLER. The rest of the pamphlet contains blank forms.

Mr. RUNYON. Yes, that is all right.

Mr. KELLOGG. Now, there is no objection to Rule 19. The petitioner requests that the other rules, from 1 to 19, as shown in the pamphlet, be considered in evidence. Do you want that marked as your exhibit?

Mr. MILLER. Yes; mark it as our exhibit.

(The pamphlet referred to is marked "Defendants' Exhibit 220.")

Q. I call your attention, Mr. Barnes, to rule or regulation 19 of defendants' Exhibit 220, which provides as follows: "It is made hereby an express condition of the acceptance of a permit or permission to build or operate a pipe line and appurtenances under these regulations that if at any time the Secretary of the Interior shall be satisfied that any of the provisions of these regulations, or of any amendments or changes thereof hereafter established have been or are being violated, the said Secretary of the Interior, after ten days' notice to the owner or owners of such pipe line of his intention so to

do, shall have authority summarily to suspend, cancel, or revoke said permission to construct or operate such pipe line, pumping stations, and storage tanks; and it is further provided and made an express condition of the acceptance of such permission that the Secretary of the Interior shall at any time have power to so suspend, cancel, or revoke such permission in case he should be satisfied that such pipe line is involved in any transaction tending to improperly
11789 regulate the price, supply, or distribution of oil, or to bring about such combination of pipe-line interests as shall be in substantial violation of the intent of section 18 hereinbefore set forth. And upon such suspension, cancellation, or revocation of permission, and during the period of its suspension the Secretary of the Interior shall have power to place in charge of such pipe line and its appurtenances a person to be designated by him, who shall be accountable to him and shall manage and operate the same under his direction." Now, upon your cross-examination, after speaking of the need of more pipe lines in your territory, by which I understood reference was made to yourself and other shippers, or producers, rather, to build pipe lines, I will ask you whether under such a regulation as that, if you had the money or means, you would regard it as a desirable enterprise to build pipe lines into that territory?

Mr. KELLOGG. That is objected to as immaterial.

A. My judgment is that any company that would build a pipe line under those restrictions, the officials should be confined in the insane asylum.

Q. Upon your cross-examination you were asked about competition in the purchase of oil in the Oklahoma territory. There is plenty of competition among the producers, isn't there? That is, there is not any combination among the producers of Oklahoma, or any monopoly?—A. The only competition, as I said last night, the only competition that I know of in our field is the competition of producers to see how cheap they can sell oil.

11790 Q. Now, you have not any knowledge or idea, have not any information whatever, that the Texas and Gulf Pipe lines are allied in any way with the Prairie Oil & Gas Company, have you?—A. No, sir.

Q. Have not any sort of information about that, have you?—A. No, sir.

Q. So far as you have any information they are entirely independent lines——A. Supposed——

Q. Independent companies?—A. Yes, sir.

Q. Your information is that those lines run down to independent refineries in Texas?—A. Yes, sir.

Q. I mean by independent refineries, refineries independent of or competitors with the Standard Oil Company?—A. Yes, sir.

Q. Now, Mr. Barnes, are you a member of any oil producers' association?—A. Yes, sir.

Q. What is it?—A. The Mid-continent Oil Producers' Association. I am a member of that.

Q. And that is made up of what?—A. Oil producers, independent oil producers in the Mid-continent field.

Q. Are you an officer of it?—A. I think I am—yes; I am on the board.

Q. How many members has it?—A. I think we have about three hundred.

Q. You know Mr. Litchfield, don't you, who was on the witness stand before you?—A. I do.

Q. Is he a member and officer of the Producers' Association?—A. Yes, sir.

11791 Q. You live at Muskogee, do you?—A. I do.

Q. And Muskogee is in Oklahoma?—A. Yes, sir.

Q. Where is it with reference to the Glenn Pool?—A. It is fifty miles almost due east.

Q. You are active in this oil-producing business, are you?—A. Comparatively so.

Q. Are you engaged in any other business?—A. I am in the banking business.

Q. Where is your bank?—A. Muskogee.

Q. Are you acquainted with the producers in Oklahoma?—A. Yes, sir.

Q. You know their experiences and their attitude and views upon the oil situation?—A. I think so; yes, sir, I do.

Q. Now, I want to ask you with reference to that, namely, the views and attitude and feeling on the part of the oil producers in Oklahoma about which you know, toward the Prairie Oil & Gas Company and the conduct of its business and its treatment of producers in those fields.

Mr. KELLOGG. That is objected to as immaterial.

Mr. MILLER. Is it? I thought you made a good deal of it.

Mr. KELLOGG. Entirely immaterial and hearsay, and a mere statement of his views as to what the others think, which is manifestly improper.

Mr. MILLER. Well, are you going to, or have you sought to create any impression about that in this case?

Mr. KELLOGG. Nothing except what I have asked the witnesses.

11792 Q. You may answer, Mr. Barnes.—A. I think 95 per cent of the producers are favorable to the Prairie Oil & Gas Company, from my knowledge.

Q. Do you know why?—A. Because they consider them their friends—the best reason on earth.

By Mr. KELLOGG:

Q. Do you know 95 per cent of the producers?—A. Well, nearly so, I would say so; not quite, possibly.

Q. You have met them all and talked over this subject with them?—A. No, I have not. I know a great many of them, though.

Q. You know what you think, and you believe they think the same as you do?—A. I think they are pretty level headed as a rule.

Q. Now you don't know what 95 per cent of the producers think about it, do you?—A. Well, you say I don't.

Q. Well, do you?—A. I think I do; yes, sir.

Q. You have talked with 95 per cent of them, have you?—A. No, sir.

Q. Have you talked with 50 per cent of them?—A. I would not swear that I had.

Q. Or 25 per cent of them?—A. I think I have.

Q. Have you ever been in the pipe-line business?—A. Yes, sir.

Q. Have you operated pipe lines?—A. I helped manage a small pipe line at one time.

Q. What pipe line?—A. Why, the Manhattan Pipe Line.

Q. You managed the Manhattan?—A. Yes, sir.

Q. When?—A. In 1891 and '2, in the Lima field. We bought some oil.

11793 Q. How large a pipe line was it at that time?—A. Our main line was a 4-inch line.

Q. A gathering line, or——A. We bought oil and gathered and shipped.

Q. How long did you manage it?—A. About one year.

Q. At that time it was comparatively a very small line, wasn't it?—A. Yes, sir.

Q. And was what you call a gathering line?—A. Oh, no; we bought oil and produced oil also.

Q. You know what a gathering line is, as distinguished from a trunk line, don't you?—A. Yes; I think so.

Q. The gathering lines reach the wells, and then they collect the oil and deliver it through large tanks into a regular trunk line?—A. Yes, sir.

Q. Was this a trunk line or a gathering line?—A. A gathering line, if you please; gathered our own oil and bought some.

Q. Now, you say in your opinion it is not practical to act as a common carrier?—A. I do.

Q. Why?—A. For the reason I stated.

Q. What reason?—A. On account of the gravity. For instance, if I should want to sell oil to a concern in Kansas City, 36-gravity oil, for which we could get a good price, say 10 cents a barrel higher, if you please, than the 28-gravity oil, we could not do it.

Q. Do you do that now?—A. Do we?

Q. Yes.—A. Certainly not.

11794 Q. You sell all your oil as 32 or above, don't you?—A. We have to.

Q. As one grade?—A. We have to.

Q. Then if you have to do that—I think I understand you, Mr. Barnes—if you have to do that now, suppose there was a big refinery down on the Gulf——A. Yes, sir.

Q. At the other end of the Gulf Pipe Line. You now sell all your oil to the Gulf as one grade, don't you?—A. We have to; yes, sir.

Q. And you sell all your oil to the Standard at one grade—to the Prairie Oil & Gas Company as one grade?—A. We do; yes, sir.

Q. They don't take it at separate grades and pay you separate prices?—A. Certainly not.

Q. Under those same circumstances if there was a big refinery or a refinery down on the Gulf at the other end of the Gulf Pipe Line or the Texas Pipe Line, and you had oil and they should come up and buy that oil as one grade, just the same as they do now, there would be nothing impractical about transporting that oil to that refinery through the pipes, would there?—A. Well, it depends—if you want to get the price that we are entitled to on account of our superior oil——

Q. No; I am asking you, just as you sell it now.—A. Oh, as we sell it now.

Q. There would be nothing impractical about transporting that oil?—A. I should say not; no.

Q. That is, you mean it is not practical to keep separate all the grades of oil and ship them through a pipe line for the
11795 producers?—A. Exactly; yes, sir; that is what I claim.

Q. But if the grades are mingled as they are to-day, so that you sell all your oil, 32 or better, as one grade, there would be nothing impractical about transporting that as a common carrier, would there? Do you understand me, Mr. Barnes?—A. I think I do.

Q. Taking the oil as it is, as you sell it now, would there be anything impractical?—A. But, then, in that version of it we would be compelled to sacrifice, if we have got the superior oil.

Q. Oh, yes; but I say, taking it just as you sell it to-day.—A. As we sell it now?

Q. Yes, as you sell it now, is there anything impractical?—A. I claim that is unjust.

Q. Yes, I understand what you claim, but selling it just as you sell it to-day, at one grade, 32 or better, is there anything impractical about transporting that as a common carrier, all as one grade?—A. Well, I am not in sympathy with that.

Q. That is not what I asked you, whether you are in sympathy with it, Mr. Barnes. I asked you whether, as a pipe-line man, there is anything impractical about transporting that as a common carrier, all as one grade,—A. I don't see anything in it.

Q. Do you see anything impractical about the physical transportation of it? That is the point, not whether you think it would be advisable or not.—A. I am not prepared to say that I think it is a good thing.

11796 Q. I have not asked you whether it is a good thing or a bad thing. I have asked you whether there is anything impractical about transporting it—physically transporting it—all as one grade, as a common carrier.—A. I can't see—I don't understand, if they are running it for business, on a business basis, what there is in it as a business proposition.

Q. That is not what I asked you.—A. No, sir, I think it is——

Q. I have asked you as a pipe-line expert whether it is practical to transport it all as one grade, for independent refineries, sell it to them, transport it for them.—A. It might be, but I doubt it.

Q. Now let us see about that. Why do you doubt it?—A. Because I don't believe it is businesslike.

Q. Why isn't it businesslike?—A. Well, why *is* it businesslike?

Q. I have asked you why it is not businesslike.—A. I think there is nothing in it.

Q. Now let us see. Suppose there are five or six large refineries owned by different people, down at the Gulf, connecting with the Gulf and the Texas pipe lines, and they are buying oil in your district, each one buying for himself?—A. Yes, sir.

Q. Buying it all as one grade, just exactly as they buy it to-day?—A. Yes.

Q. Isn't it a good thing for you to have as many purchasers as possible in that field?—A. It certainly is.

11797 Q. Then is it impractical for them to buy that oil all as of one grade and have it transported to them down there as separate owners of so much oil?—A. I never have heard of anything of that kind before.

Q. Now let me cite some instances. You know the United States Pipe Line here in Pennsylvania?—A. I know there is such a concern.

Q. They do that.—A. Do they?

Q. Yes and have for years, acted not only as common carriers of crude oil, but of refined oil for different owners.

Mr. MILLER. Not to any very great extent.

Q. To a very large extent, Mr. Miller. They do that to-day, Mr. Barnes.—A. Well, I didn't know that.

Q. Yes, they do. Now, it is entirely practical to transport that oil all as one grade, just as you sell it to-day, isn't it, for hire, to different owners, different refiners?—A. I would not concede that, no.

Q. Why would not you concede it?—A. Because I don't believe it is business.

Q. What is that?—A. I don't think that is business.

Q. Why not?—A. I think that is——

Q. Now, suppose there are half a dozen big refineries down in Texas?—A. That sounds to me like Washington oil business.

Q. Wait a minute. Let us see about that. Suppose there are half a dozen big refineries down there in Texas, and the Texas Pipe Line Company is simply a pipe line company. Is there anything impractical about their transporting that oil, all as one grade, to those half dozen different refineries which they do not own?—A. I don't see what they would gain by it.

11798 Q. They would gain their transportation charges, wouldn't they?—A. They would any way.

Q. Is it any more impractical to transport it for a half dozen different refineries, owned by different people, than it is to trans-

port it for half a dozen refineries owned by one person?—A. Oh, I think that is just a—there is nothing in it. That is straining at a gnat.

Q. Don't you know that the United States Pipe Line——A. No, I don't know that .

Q. Transports oils for a number of different refineries here at the seaboard?—A. I don't know that.

Q. You don't know that they do not?—A. No, I don't swear to anything I don't know.

Q. Well, you say the more refining purchasers you have, the better for you?—A. That is very true. We would like to have purchasers.

Q. Is it better for you to have the Gulf Pipe Line own all the refineries which it transports oil to than it is to have the Gulf Pipe Line transport oil for half a dozen different owners who are buying in your district?—A. Well, let me tell you. We have got two common carriers in our country, and they are so damned common that we don't like them.

Q. Now let us see. Do they transport oil for anybody except themselves?—A. Yes, sir.

Q. Who?—A. Why, they buy of producers there—the Texas Oil Company does.

Q. And transport it for themselves?—A. They are common carriers, as I understand it.

11799 Q. Do they transport for anybody except themselves?—A. I think not; not to my knowledge.

Q. Then they are not common carriers, are they?

Mr. MILLER. They file a tariff.

A. They are supposed to be. It is a bluff, of course.

Q. They are just simply evading the law, aren't they?—A. I am not a judge.

Q. Their rates are so high that it is impractical, isn't it?—A. It certainly is.

Q. Now, suppose their rates were reasonable, and there were a large number of big refineries down at the Gulf, would not that be better for you than it is to-day with only two refineries there?—A. Possibly.

Q. If those big refineries were all buying in competition with each other, wouldn't it be better for you?—A. How is that?

Q. If those big refineries down on the Gulf were all buying in competition with each other in your territory, would not that be better for you?—A. It depends on what price they paid us.

Q. I say, if they were buying in competition.—A. If they were buying in competition?

Q. That would be better for you?—A. Now, how do I know there would be any competition?

Q. I ask you, if they were buying in competition. I think you understand.—A. Oh, I think that is too much of a supposition. I can't answer those questions.

Q. Then your opinion is simply that it would not be a good thing for you to have independent purchasers of oil buying and
11800 shipping through these pipe lines?—A. How is that?

Mr. KELLOGG. Read the question.

(The reporter read as follows: "Q. Then your opinion is simply that it would not be a good thing for you to have independent purchasers——")

A. Oh, I didn't say that. You know I didn't say that.

Mr. KELLOGG. Wait till he gets through. Let him read the whole question.

(The reporter read as follows: "Q. Then your opinion is simply that it would not be a good thing for you to have independent purchasers of oil buying and shipping through these pipe lines?")

Q. As common carriers?—A. I don't say yes to that, because that is too absurd.

Q. Now, you say the Prairie Oil & Gas Company——A. That is comical.

Q. You say the Prairie Oil & Gas Company started to build a pipe line to the Glenn Pool, was it?—A. Yes, sir.

Q. And pulled it up?—A. They did.

Q. When did they start to build it?—A. Why, it was between Caney and Bartlesville. The common opinion was it was to be laid to the Glenn Pool. Now of course I have no knowledge of where they were going to run it. The supposition was they were to run it into the Glenn Pool.

Q. They pulled it up, did they?—A. Yes, sir.

Q. Why?—A. From what we gathered, on account of the rules.

Q. What rule is there here which has been promulgated by the Department of the Interior that in your opinion is un-
11801 reasonable?—A. Why, that one that I passed my opinion on.

Q. That says that if they do not comply with the other rules in any regard——A. Yes.

Q. The Secretary of the Interior, "after ten days' notice to the owner or owners of such pipe line of his intention so to do, shall have authority summarily to suspend, cancel, and revoke the permission to construct and operate a pipe line." Now, what rules?—A. That rule right there. What company do you suppose would advance millions of dollars to build a pipe line, at the whim, if you please, of the Secretary of the Interior?

Q. The Secretary of the Interior——A. Every time he got bilious he could tell them that they were out of it, I suppose, and take it away from them.

Q. Does this rule say that every time he got bilious he could take it away from them?—A. Pretty near; yes.

Q. It says if they do not comply with the foregoing rules. Now, what are those foregoing rules that are unreasonable?

Mr. MILLER. In his opinion.

WITNESS. That is my opinion; yes, sir.

Mr. MILLER. It says in the Secretary's opinion. His opinion is conclusive of it.

Mr. KELLOGG. No; he does not determine anything of the kind.

Mr. MILLER. Read the rule again and see what it says.

Q. What rule is it that they are required to comply with that is in your opinion unreasonable?—A. I think a great deal of that is.

11802 Q. Well, what? Name one thing.—A. That is one of them.

Q. But that is not a rule of action?—A. A child could see that——

Q. What rule of action?—A. The injustice of that.

Mr. MILLER. If that is not a rule of action, what kind of a rule is it?

Q. What rule that they are required to comply with as a condition, in your opinion, is unreasonable?—A. Well, we have suffered so much, I——

Q. You can't name any, can you?—A. I don't say I can't.

Q. Will you name one?—A. I have named one.

Q. This last rule says that if they don't comply with the regulations which the Secretary of the Interior imposes on them (and they are given in the same pamphlet), then their license shall be taken away. Now what rule that they are required to comply with do you think unreasonable as a condition to their license being taken away?—A. I think the common carrier, if it is honestly carried out, which I do not believe it is practical, and it has not been carried out by the other lines, would be an injustice.

Q. Would be an injustice?—A. I think so——

Q. That is, you think they ought not——A. As a business proposition; yes, sir.

Q. You don't think they ought to be required to act as a common carrier?—A. I don't think there is any business in it.

Q. Then you will always be subject to sell your oil to the pipe-line company, won't you? You can't transport it yourself

11803 or have anybody else transport it?—A. We certainly can't transport it, because we have tried to do it and can't do it.

Q. With whom have you tried?—A. We have tried the Gulf Pipe Line Company.

Q. Did they refuse?—A. Well, virtually so; yes, sir.

Q. What refusal did they make?—A. We got a better rate on the railroad, as I testified to yesterday, of 5 cents a barrel. I don't know what argument more you would want than that.

Q. That is, their rates are unreasonable, and therefore it is not practical. Isn't that it?—A. I think so; yes.

Q. Now, suppose their rates were reasonable—10 cents a barrel——A. Well, we could afford to do business with them then.

Q. It would be a good thing for you if their rates were 10 cents a barrel, wouldn't it?—A. Yes, sir; better for us. No doubt of that.

Q. Now, if 10 cents a barrel or 15 cents a barrel is a fair price for transporting that oil, that would be a good thing for you people to

have those lines as common carriers, wouldn't it?—A. If they could afford to do it for that.

Q. What do you think they can afford to do it for, Mr. Barnes?—A. I am not prepared to say.

Q. You say you think 45 cents is prohibitive. I agree with you. What do you think they can afford to do it for?—A. I don't know as my opinion would be of any value on that. I am not in the pipe-line business.

Q. You say, in answer to Mr. Miller, that the Gulf Company and the Texas Company are not connected with the Standard Oil
11804 Company, to your knowledge. Do you mean by that that you have no knowledge on the subject one way or the other?—A. I have no knowledge.

Q. That is, you do not know that they are not connected with them? You have no knowledge on the subject. Isn't that correct?—A. I have none.

Q. You don't know that they don't—do you have any knowledge as to whether they have arrangements with the Standard?—A. I have no knowledge.

Q. They may have, and you do not know anything about it?—A. I don't say that.

Q. If you have no knowledge one way or the other that they have such arrangements—they might have such arrangements, might they not, as far as you know?—A. That answers itself.

Q. What proportion of the oil in Oklahoma is 32 degrees or better?—A. I should say at a guess 50 per cent.

Q. 50 per cent? Isn't it a very much larger percentage than that in the whole territory of Oklahoma?—A. 32 gravity?

Q. Yes, or better?—A. I doubt it.

Q. Have you sold any under 32, ever, yourself?—A. No, sir.

Q. You always sold yours at 32?—A. Because we are where the 32 oil is, you know.

Q. The Glenn Pool is more than half of the total production in Oklahoma, isn't it?—A. No; I think not.

Q. Is it about half?—A. No, sir.

Q. About what percentage?—A. I think the Glenn Pool production in round figures is about 50,000 barrels per day.

Q. What is the total production?—A. And the total pro-
11805 duction of Oklahoma and Kansas——

Q. I am speaking of Oklahoma, Mr. Barnes.—A. Well, Oklahoma. I think in round figures the production of Oklahoma is 150,000 barrels a day.

Q. There is a vast amount of 32 or better in other parts besides the Glenn Pool, isn't there?—A. There is some.

Q. A great deal, isn't there?—A. I don't know the proportion, sir.

Q. Is there anything impractical about the pipe lines taking this Glenn Pool oil which runs 32 or better into their pipes, issuing certificates for it, and delivering an equal amount of the same grade of oil—that is, 32 or better—at the other end?—A. They could not do it.

Q. Why not?—A. Because the gravity would become lowered by contact with oil of lower gravity than that.

Q. I am asking—those two pipe lines don't take any but 32 or better, do they?—A. Which two pipe lines?

Q. The Gulf and Texas.—A. Oh, did you say that?

Q. Yes, the Gulf and Texas.—A. I misunderstood you.

Q. The Gulf and Texas.—A. Yes, sir.

Q. Is there anything impractical about their issuing a certificate, and that certificate being salable and a receipt for so much oil and an agreement to produce that much at the other end of the pipe line? Is there anything impractical about that?—A. Well, it used to be done.

Q. A great deal, didn't it?—A. A great deal; yes, sir.

Q. And if there are purchasers for the oil down at the other end, that is not at all impractical, is it?—A. Well, it has
11806 been done away with. I presume there were reasons for it.

Q. Who has done away with it, Mr. Barnes?—A. The—well, the Standard Oil Company.

Q. The Standard Oil Company, yes. Has anyone else ever done away with it?—A. I don't know that anyone else ever tried it.

Q. You don't know about the United States Pipe Line?—A. No, I am not familiar with that.

Q. You don't know about the Tidewater Pipe Line?—A. I am not familiar with it, no.

Q. Then the only one that has done away with it that you know of is the Standard?—A. That is my impression, yes, sir.

Q. You don't know anything about why they did away with it, do you?—A. I do not.

Q. Do you know that the Standard does not deliver oil to certain independent refineries to-day on that system in Pennsylvania?—A. How could I know that?

Q. Then you don't know that it has been entirely done away with, do you?—A. I don't know anything about their business.

Q. Years ago that was the practice, wasn't it?—A. It was.

Q. So that pipe line certificates were issued, which called for the delivery of that grade of oil at the other end?—A. Yes, sir.

Q. And it was done, and those pipe-line certificates were sold in the market and bought by different refiners?—A. I think so.

Q. Is there anything impractical about that being done down there if the pipe lines are willing to do so, in the Glenn Pool say—the Gulf and the Texas?—A. I am not prepared to answer that.

11807 Mr. KELLOGG. All right, sir; that is all.

By Mr. MILLER:

Q. Do you know whether the Texas Pipe Line Company undertakes, if it receives oil of 32 or better from a shipper—whether it offers to turn out to the shipper the same quality of oil that it receives?—A. The Texas Company?

Q. Yes.—A. It certainly does not, because it provides for it in its tariff, or restrictions there, or its rules. It provides that they do not do that. If you will read them, they are there.

Q. Do you know that that line only undertakes to deliver oil as good as 30?—A. I don't know what they do, sir; I don't know what they undertake.

Q. You say that in Oklahoma the oil varies in degree from 28 up to 41?—A. 44.

Q. 44.—A. In Muskogee.

Q. Now, if you should take an oil of 32 degrees and mix it with an oil of 28, what would be the effect upon the 32-degree oil?—A. Lower the price of it, naturally. The higher the gravity the more money it is worth.

Q. Do you know whether south of Oklahoma, in Texas, through which the Texas and Gulf lines run, the oil fields of Texas—do you know what the grade of oil is?—A. Very low gravity; it strikes me about 20, to the best of my knowledge. I don't know.

11808 Q. If these Texas and Gulf lines could get oil of 32 or better up in Oklahoma and run it through their pipes with the Texas oil of a much lower gravity, it would necessarily reduce the Oklahoma oil, wouldn't it?—A. It certainly would. I don't believe they are doing that.

Q. Now, if the Texas and Gulf lines should undertake to ship for Oklahoma producers as common carriers under a tariff, and at the same time should not guarantee, but should provide that they did not undertake to deliver to the Oklahoma shipper the same grade of oil that he put into the pipes, but only to deliver him oil from a common pool, the Oklahoma shipper would be likely to get a lower degree of oil, wouldn't he?—A. Why, naturally; of course.

Q. Would that interfere with the shipper shipping oil——A. Why wouldn't it?

Q. Over the common carrier? Would you say it would?—A. I do.

Q. And it would be an element of consideration in rendering the business of pipe lines as common carriers impractical?—A. Wholly so.

Q. Now, in Oklahoma itself this difference in the grades of oils appears in the same pool, doesn't it, in the same field?—A. We have those cases; yes, sir; different sands, different gravities.

Q. That is, you might have oil in the Shallow Sand field there, or for that matter in the Glenn Pool field?—A. We have a deep sand in the Glenn Pool that is a lower gravity than the Glenn Pool sand by at least 6 degrees.

11809 Q. Oils of different gravities would run through the same lateral pipes, would they not, to the main pipes?—A. They would have to.

Q. These pipe lines, the Texas and Gulf, do not buy oil all of one grade, do they?—A. I think they do, mostly.

Q. You mean one grade, 32 or above?—A. 32 or above; yes, sir.

Q. But it includes all the grades above?—A. Oh, yes.

Q. And you are referring to their purchases in the Oklahoma fields?—A. Yes, sir.

Q. Well, how is it about fields below, in Texas?—A. I don't know, sir, what they do in Texas.

Q. If they buy oil down there and put it into their pipe lines also, they would buy oil of an inferior grade, wouldn't they?—A. Naturally.

Q. How does the production of different shippers in the Oklahoma field vary in quantity per day; for instance, production of barrels per day?—A. Vary?

Q. Yes. Over what quantity of production would it vary?—A. I don't follow you there, exactly.

Q. You say there are 300 shippers in your association—producers. Supposing there were 50 producers in the Glenn Pool field. I suppose there are as many as that, aren't there?—A. I presume so.

Q. Some produce a thousand barrels a day and some five?—A. Yes.

Q. Over what range would that run? Small producers would run down to what production per day?—A. Oh, I suppose there are producers there that don't produce over a hundred barrels a day.

11810 Q. Over 100 barrels a day, and then they run up to a maximum of how much?—A. Five or six thousand, some of them.

Q. Yes, five or six thousand per day?—A. Yes, sir.

Q. Now, if a producer produced a hundred barrels a day he would not produce very much to a common carrier pipe line, would he?—A. Certainly not.

Q. His oil would necessarily have to go in with some other oil?—A. Yes, sir.

Q. That would be true, even if he produced 500 barrels a day, wouldn't it?—A. Yes, sir.

Q. Or even more than that?—A. Yes, sir.

Q. Necessarily you have to throw all the oil that is produced, one after the other, into the pipe line, in order to keep the pipe line full and moving. Do you know what the capacity of a 6-inch pipe line is, we will say, in 100 feet or a mile of it?—A. It depends upon the pump largely.

Q. Supposing the oil was still, just in quantity, do you know what it is?—A. The capacity?

Q. Yes; how much would a mile of 6-inch pipe hold? Do you know how many barrels?—A. No; I am not prepared to answer that.

Q. Assume that it would be, say from 175 to 200 or thereabouts.—A. Yes, sir.

Q. In the operation of a pipe line the oil is sent under great pressure, isn't it?—A. Yes, sir, it depends largely upon the pumps.

Q. And the pipe all the way through must be kept full?—A. Yes, sir, the pressure has a great deal to do with it.

Q. And the oil is kept moving, I suppose?—A. Oh, yes.

11811 Q. What is the effect if a producer in the field turns his oil into an earthen or other receptacle for it and leaves it?—A. It deteriorates in value very rapidly.

Q. That is, the degree drops, does it?—A. Yes, sir; the gravity lowers rapidly.

Q. Rapidly?—A. Yes, sir. There has been a great loss there on that account, of not being able to take care of it and putting it out on the ground, as we call it, in storage tanks, and it deteriorates rapidly.

Q. And a great deal of oil has so deteriorated?—A. Oh, yes.

Q. And does constantly, in the production of oil?—A. There has been a great loss there; wonderful.

Q. A good deal of that, I suppose, or some portion of it, is inevitable anyway, isn't it?—A. To a certain extent, of course.

Q. And in the production of oil there, have there been cases where the oil has run out onto open ground, in the valleys and pools?—A. Oh, yes; there has been great loss there.

Q. And then they have gathered it up and sold it, although depreciated in value by this exposure?—A. Yes, sir.

Q. Oil gathered from the surface of brooks and streams?—A. Yes, sir.

Q. And sent off?—A. Yes, sir.

Q. And of course all of that oil is very much deteriorated?—A. Sold for less money. Oil has sold there, I think, as low as 25 cents a barrel, that if they had the pipe line facilities for it they could have gotten 41 cents for it. It has been a great loss to the producer—a great loss.

11812 Q. Now, Mr. Kellogg has asked you about the United States Pipe Line, about which, I take it, you do not know very much?—A. I know nothing.

Q. Do you know that the oil that it carries is all run into pools in the east, the terminus of the lines?—A. Do I know that, do you say?

Q. Yes; and mixed and turned over to the refiners in that condition?—A. I don't know anything about it, sir.

Q. You don't know? You never heard that they kept the oil or any one batch of oil or the oil of one shipper separated from that of the others?—A. I never heard of such a thing.

Q. You would be surprised if they tried to do that, wouldn't you?—A. I think so.

Q. It would be impracticable?—A. I think so.

Q. If a pipe-line company, a common carrier, should give to a shipper certificates upon the receipt of oil of 41 degrees gravity, what would you say as to the practicability of the common carrier delivering that oil to the shipper at the other end at 41 degrees gravity?—A. They would not give us those, for the reason that they could not deliver it.

Q. They could not deliver it. What you would like to see, I suppose, Mr. Barnes, is enough pipe-line accommodations so that the oil

of different gravity, from 32 up, would receive its due relative value in price.—A. Yes, sir.

Q. So that you could get more for your 36-degree oil than you do for your 32?—A. Yes, sir.

By Mr. KELLOGG:

Q. You get the same price for your 41 as you do for your
11813 32, don't you?—A. We do.

Q. They have one price?—A. One price; yes, sir.

Q. One uniform grade?—A. Yes, sir.

Q. Now, you don't know that the Texas oil is mixed with the other in transportation, do you, or that they use the same lines?—A. That they use the same lines? They haven't but one line, you know.

Q. Do you know whether they haven't got other lines in Texas?—A. No; I don't know that.

Q. You don't know anything about it?—A. I have no way of knowing that.

Q. You don't say that you can not run a large body of oil, say 50,000 barrels of one grade, through a pipe and follow it with 50,000 barrels of another grade without their mixing, do you?—A. I don't——

Q. Isn't it a well-known fact that they don't mix where a large quantity like 35,000 or 50,000 barrels——A. They don't run oil that way. It has never been the custom to do it.

Q. They can do it, can't they?—A. I suppose they could do it; yes.

Mr. MILLER. I would like to offer in evidence the tariff of the Texas Pipe Line Company, which is listed in petitioner's Exhibit 39, being the tariff of September 1, 1907.

Mr. KELLOGG. No objection.

Mr. MILLER. I will use a copy as the exhibit, with the right
11814 of the Government to verify and point out any errors in the copy if there be any.

Mr. KELLOGG. No objection.

The paper so referred to is marked "Defendants' Exhibit 221."

11815 J. R. GREENLEES, called on behalf of defendants, being duly sworn, testified as follows:

Direct examination by Mr. MILLER:

Q. Where do you live, Mr. Greenlees?—A. At Lawrence, Kansas.

Q. Are you interested in the production of petroleum oil in Oklahoma?—A. Yes, sir.

Q. With what oil-producing companies are you connected and in what position or capacity are you connected with them?—A. I am treasurer and manager of the Alluwe Oil Company. I am president of the Indiahoma Oil Company. I was also manager of the Verdigris Oil & Development Company, and of the Chelsea Oil & Gas Company, the Eclipse Oil Company, and the Owasso Oil Company.

Q. Are you financially interested in those companies?—A. I am in the first two.

Q. The first two named?—A. Yes, sir.

Q. Do you own any wells individually, yourself?—A. No. I have wells on land that I own, that I lease to other people.

Q. What is the total production of the oil-producing concerns or companies with which you are connected?—A. Something like three thousand barrels.

Q. Per day?—A. Yes, sir. Possibly a little better.

Q. And that comes from about how many wells?—A. In the neighborhood of 250.

11816 Q. In what part of Oklahoma are those wells?—A. In the Shallow field and in the Glenn Pool.

Q. How long have you been engaged in the oil-producing in Oklahoma?—A. Since the beginning of 1904.

Q. And in what field did you commence?—A. In the Oklahoma fields.

Q. Which one?—A. The Shallow field.

Q. The Shallow field was opened earlier than the Glenn Pool?—A. Yes, sir.

Q. And when did you commence producing oil in the Shallow field district?—A. We began producing early in 1905.

Q. You were early on the ground there, I suppose, in oil production, were you?—A. Yes, sir.

Q. And have been connected with it ever since?—A. Yes, sir.

Q. What do you do with the oil that your companies produce?—A. We sell the most of it to the Prairie Oil & Gas Company. We ship some of it to independent refiners in Kansas.

Q. Does the Prairie Oil & Gas Company take from you and other shippers the capacity of their lines?—A. Yes, sir.

Q. Is the capacity of those lines sufficient to take all of your production?—A. No, sir.

Q. How does the Prairie Company arrange with shippers about that, as to the amount they shall take of the respective shippers?—A. They prorate it as fairly as possible between the different producers.

Q. You think they do it as fairly as possible?—A. Yes, sir; I do.

11817 Q. That is your experience, is it?—A. Yes, sir.

Q. You are under no contract or obligation to dispose of your oil to the Prairie Company, are you?—A. None whatever.

Q. You are free to dispose of it where you can, and where you can get the best price and terms?—A. Yes, sir.

Q. Did the Prairie Company ever impose any objection or make any objection to you selling oil to outside parties or to any one to whom you could sell it?—A. No, sir.

Q. Have you sold oil to other parties at the same time you were selling the Prairie?—A. Yes, sir; we are doing so now.

Q. Why do you not sell it all to the other companies?—A. Because they can not take it.

Q. Is there any other reason? Suppose they could take all your oil at the price at which they are taking portions of it. Do you sell

any to the Texas and Gulf Pipe Lines?—A. None to the Texas. There is some being sold to the Gulf Company.

Q. How do the prices you get from the Gulf Company compare with the price you get from the Prairie?—A. 6 cents per barrel less.

Q. The Gulf Company have a fixed price?—A. Yes, sir.

Q. What is the price?—A. 35 cents.

Q. For oil of what degree, what gravity?—A. That is supposed to be 32 and better, but they are only taking in the Glenn Pool.

Q. Does the Texas Pipe Line Company have an open price?—A. Not that I have ever been able to learn.

11818 Q. What is their method of getting oil?—A. Their method seems to be to hunt up the producer that is hardest up for room or money and get the lowest price out of him they can; buy from the low man.

Q. Does the Prairie carry on its business along any such lines as that?—A. No, sir.

Q. The Prairie pays what price?—A. 41 cents for 32 gravity oil and better.

Q. Do they buy oil of lower grades?—A. Yes.

Q. What are the prices of the lower gravity oils?—A. It depends upon the gravity of the oil: 3 cents off for 31½, 6 cents for 31, and 9 cents for 30½, and below that, I believe, it all goes as fuel oil.

Q. Don't they buy 30 gravity oil?—A. Yes.

Q. For 29 cents?—A. Yes. The fuel oil comes in at 28 cents. Let me see. Yes, 30 oil would be 29 cents.

Q. Then, the prices, respectively, for the different gravities would be, commencing with 32 and better, 41 cents; and that of a gravity of 31½, 38 cents?—A. Yes, sir.

Q. And oil of a gravity of 31, 35 cents?—A. Yes.

Q. And of a gravity of 30½, 32 cents?—A. Yes, sir.

Q. And of a gravity of 30?—A. 29 cents.

Q. And fuel oil, 28 cents?—A. Yes, sir. Those are the prices.

Q. Fuel oil being of a gravity of——A. Everything below 30.

Q. How long have those prices been in effect?—A. About two years, I believe.

11819 Q. And what would you say as to whether under all the circumstances the prices paid by the Prairie Oil & Gas Company for petroleum oil is or is not fair and just?—A. I believe it to be a fair price under the circumstances.

Q. Is it a profitable price for the producer?—A. It is where you have ordinarily productive wells. Some territory would not be profitable to drill at that price.

Q. But there is plenty of oil there that it is profitable to produce at that price?—A. Yes, sir.

Q. More oil can be produced at a good profit at that price than can be disposed of?—A. That has been the condition up to this time.

Q. Do you know whether or not the Texas and the Gulf Pipe Line companies themselves own their own wells and produce oil; whether they own oil-producing property in Oklahoma?—A. Yes, sir.

Q. Do they do that in their own names or in the names of companies that they own and control?—A. Mostly through the names of companies controlled by them.

Q. How do you know that?—A. I know it from my own experience and observation.

Q. Have the Prairie Oil Company confined themselves in the purchase of oil to such quantities as they could transport and take away through their pipe lines?—A. No, sir.

Q. They have bought more oil than the capacity of their lines?—A. Very large quantities of it.

11820 Q. How long have they been doing that?—A. Ever since the production of the field began to exceed the capacity of their refinery at Neodesha to handle it.

Q. What do they do with that oil that they buy—this surplus or excess more than they can carry off?—A. They put it in steel tanks on different tank farms through the country.

Q. And have they paid for that oil the same as that which they have transported through their pipes?—A. Yes, sir.

Q. Do you know what the result or effect of storing oil is upon the oil—upon its quality and value?—A. I do.

Q. What is the effect or result?—A. The lighter portions evaporate very rapidly. The more gasoline it contains the faster it will evaporate.

Q. And does the oil deteriorate as the result of that?—A. It does, indeed. The gasoline is the most valuable product they have in that oil for refining, as used there.

Q. Now, as between oils of high gravity and oils of low gravity, which will lose most by evaporation in the same time?—A. The high gravity, because it contains the most gasoline.

Q. The more valuable the oil the more rapid and the greater the loss by evaporation?—A. Absolutely.

Q. Have you had experience and have you observed and do you know what the percentage of evaporation is, approximately, in a fixed time?—A. Oh, approximately.

Q. What would you say, from your experience, the amount of evaporation and loss is, say in a year, in stored oil?—A. On that highest-gravity oil it will not fall much short, if any, of 10 per cent.

11821 Q. What other result of storing is there upon the oil, of letting it stand in storage tanks for periods of time? Is there any sediment in the bottom of the tank?—A. Oh, yes. All water and other impurities settle in the bottom in the form of what we call "B. S."

Q. What has been the result to producers of oil of the policy and practice of the Prairie Company of buying oil in excess of its capacity—buying this surplus and storing it?—A. It has helped the producer very greatly.

Q. Supposing they had only bought so much as their pipes would have carried off, what, then, would have been the result to the pro-

ducer, different from what it has been?—A. There would probably be more of them bankrupt.

Q. Ordinarily the producers are not able either to store their oil or to get it out to market to any very large extent beyond that which is carried off in this way?—A. No, sir.

Q. And according to your experience as a producer, if the oil produced had not been taken by the Prairie Company and stored what would have happened to it?—A. It would probably have wasted a great deal more than has been the case.

Q. Where producers store oil—I suppose they do to some extent take care of their oil, don't they? But in what way do the producers do that? What facilities have they for storing or taking care of oil?—A. The producers usually provide what they call lease storage,
enough to take care of the wells for three or four days or a
11822 week, and depend on emptying some of that storage into the
pipe line in order to take care of the production of the wells.

Q. Is that wooden tankage for temporary storage?—A. Mainly yes, sir.

Q. Since the Prairie Company has had its pipe lines in there and has taken as much oil as it has, and has paid the price that it has, what has been the effect upon production, as to whether it has been increased?—A. It has been very greatly increased. In every case when they would place a new line—take it in that Shallow field; the first line built was a 4-inch line. Everyone thought that that would provide ample facility to take care of all the production we would have there. Before they got it fairly completed they had drilled so many new wells that they were nearly as far behind as when they laid it.

Q. You mean by "they," the producers?—A. The producers, yes, sir. Then the next move was another 4-inch line across from the north end of the field to Bartlesville, taking the main line there. We all rejoiced and began drilling again. It only takes about a week to drill one of those shallow wells. By the time that line was completed we were just as far from being able to handle the production as before they began laying it, apparently. Then came a 6-inch line. The same experience was repeated there. And just recently they laid an 8-inch line into the field, and the boys are working as hard as they can to do the same thing over again.

Q. The tendency is to overproduce?—A. Yes, sir.

Q. If the facilities for taking care of the oil at prices that would
pay a profit, as those facilities grow, that encourages
11823 more digging of wells, boring wells, and more production?—
A. Oh, yes. Then, the policy of the Department has helped to force the increase of production.

Q. You mean the Department of the Interior?—A. Yes, sir.

Q. What do you mean by that? How has it helped?—A. In this way: They compel you either to drill a well within twelve months or pay a dollar an acre rental, in addition to your ordinary advance royalties as they are termed. A great many people who take a block

of leases find that those royalties and rentals become very burdensome. Rather than continue paying they will go out and drill to see if there is anything to justify carrying those leases. Some fellow does that and opens up a good well. Every one that adjoins is forced immediately to protect their properties, and so it goes from one to the other.

Q. Why forced to protect their properties? What do you mean by that?—A. To keep the man who drills the first well from draining oil that belongs across the line to the other man.

Q. Then, if your neighbor, the owner of the lease of land adjoining you, puts down wells upon his property and strikes oil, that forces you to drill on your adjoining land to prevent him getting your oil; is that it?—A. Yes, sir.

Q. And the regulations of the Department require that to be done also?—A. Yes, sir. They stipulate they can compel you to do it, if you do not do it voluntarily.

Q. By the terms of the leases there is a royalty—that already appears in evidence, I think—that the lessee pays to the lessor a
11824 certain proportion of the output?—A. Oh, yes; in addition to that you have what they term advance royalties, money payments that you must make. That comes back to you out of production if you are fortunate enough to secure production; otherwise it is gone.

Q. Then it is expensive and burdensome to own and carry leases of these lands unless the oil wells are opened upon them, is it?—A. Yes, sir.

Q. And then, as you say, if your neighbor opens wells and you do not, then the oil under your land is drained off by him through his wells?—A. Yes, sir.

Q. And in the construction of wells is there any practice or rule or requirement that the wells shall be along near the boundary line?—A. No——

Q. Between that land and the neighboring land?—A. There is a stipulation that you shall not drill nearer than so many feet.

Q. That is 150 feet?—A. It was formerly; it is now 200.

Q. When was it changed?—A. It was changed about two years ago, or a year and a half.

Q. Then, as a matter of practice, does the man who first puts down the wells upon his tract of ground usually come up to or near that limit, to his neighbor's line?—A. Yes, sir; he usually selects a location on one of his outside lines. Occasionally they do the reverse, but it is very seldom.

Q. And that forces the neighbor, or that fact, together with the rules or the regulations of the Department of the Interior, require him to put down corresponding wells upon his land?—A. Yes.
11825 If it happens to be a corner location it would mean the drilling of four wells.

Q. And all of that tends to the development of wells and to overproduction, does it not?—A. It does.

Q. To what do you attribute the change in the decline of prices of crude oil in that territory, Mr. Greenlees?—A. Overproduction beyond the capacity of the transportation facilities.

Q. And would you say, also, in addition to the transportation facilities, the market too?—A. Yes, that is implied in the other.

Q. They produce more oil than the market will take?—A. Yes.

Q. The production in the Oklahoma district is very great, isn't it, compared with others in the country?—A. Yes, sir.

Q. Among the greatest?—A. The largest field in the United States.

Q. And that oil has come upon the market within a few years?—A. Yes, sir.

Q. In addition to the oil that previously was coming from other oil-producing territories and interests?—A. Yes, sir.

Q. And, in addition to that, there have since been large developments in Illinois?—A. Yes, sir.

Q. The fact is that the Prairie Company, in buying this surplus oil, has put it into tanks instead of putting it into pipe lines and carrying it away? How long has that oil remained in the tanks out there?—A. The first of it for about five years.

11826 Q. Still there?—A. Yes, sir.

Q. And has been accumulating ever since?—A. Yes, sir.

Q. Do you know how much there is stored out there?—A. Approximately 40 million barrels.

Q. Would you say, then, that the fair cost to the Prairie Company of that oil is substantially more than the price they paid for it?—A. Very decidedly so.

Q. What would you say the cost of the oil to the Prairie Company is?

Mr. KELLOGG. That is objected to. It does not appear that the witness knows.

Q. Well, have you knowledge of the elements? You have knowledge of some of them. You have spoken about storage. Do you know what the cost of storage is?—A. I do.

Mr. KELLOGG. Mr. Miller, your books show exactly what it costs. Why don't you show it? This is mere speculation.

Mr. MILLER. Why don't I pursue my own plan in presenting this witness? You object to the questions if you wish to. I have got a man, I guess, who knows.

Q. Have you ever built any storage tanks yourself?—A. Yes, sir.

Q. Do you know what they cost?—A. I do.

Q. And you testify that you know the effect upon the oil in storage?—A. Yes, sir.

Q. Are there any other elements of cost than the cost of storage farms or tanks?—A. Yes, sir.

Q. In the storing of oil. What are they?—A. Interest on money, insurance, shrinkage.

Q. You are familiar with all those elements, are you?—
11827 A. Yes, sir.

Q. What would you say that the cost to the Prairie Oil & Gas Company of that oil is altogether?—A. You mean take it as a whole?

Mr. KELLOGG. That is objected to. It does not appear that the witness knows what the cost is to the Prairie Company.

Q. Take oil that they buy at 41 cents a barrel.

Mr. KELLOGG. Wait a moment. Do you know what the cost is, Mr. Greenlees?

WITNESS. I think I do; yes, sir; approximately.

Mr. MILLER. Now you have qualified him.

Mr. KELLOGG. We will see whether I have or not.

Q. Now go on and state.—A. For the oil that was put in there two years ago, down to this time, I would say that the average would be 80 cents or better at this time.

Q. Per barrel?—A. Yes, sir.

Q. What do you mean by "better?"—A. 80 cents or more.

Q. What has been the fact, if you know, as to whether the Prairie Company have been prompt in connecting its lines with the tanks and wells of yourself and other producers?—A. It is a fact that they have given us very prompt service.

Q. They have been prompt in taking care of the oil to the extent of the capacity of their lines?—A. Yes, sir.

Q. You have operated principally in the Glenn Pool, have you not?—A. Principally in the Shallow field, but in the Glenn Pool as well.

Q. Have you made efforts to sell to the Texas and Gulf companies?—A. Yes, sir.

11828 Q. What has been your experience about that?—A. I have never been able to. They always had some good excuse for not connecting up tanks.

Q. Has there been any attempt on the part of the Prairie Company to confine your sales of oil to that company?—A. None whatever.

Q. Or prevent your disposing of your oil where you could to the best advantage?—A. No, sir; never in any way.

Q. Have the Texas and Gulf lines ever carried any oil as common carriers for producers there, to your knowledge?—A. Not that I could learn of.

Q. Did they ever carry any for you?—A. No, sir. We tried to figure out some way that we could ship some oil through their lines, but never have been able to do it.

Q. Are you a member of the Mid-continent Producers' Association?—A. Yes, sir.

Q. What percentage or proportion of the producers are members of that association?—A. Oh, I hardly know as to that. Probably a half or two-thirds.

Q. How many members are there?—A. I think there are some eight hundred or nine hundred members at the present time.

Q. What is the purpose of that association?—A. The association was organized to further the interests of the producers and to act

more unitedly, especially in the matter of the leasing regulations, in our business with the Interior Department at Washington.

Q. And have they also taken up this subject, and was that one of their purposes, to help the marketing of their oil and
11829 getting their oil out and into the pipe lines?—A. So far as possible. Everything that would tend to the benefit of the producers as a whole.

Q. Has the subject of the pipe-line situation, the pipe-line regulations, among other things, been a subject of discussion in your association?—A. Yes, sir.

Q. Do you know, and if you do you may state, with respect to the feeling and views of the producers in Oklahoma concerning the treatment of them, the dealings, and the conduct of the Prairie Oil & Gas Company.

Mr. KELLOGG. That is objected to as hearsay.

A. I think I know; yes, sir.

Q. You may state what it is.—A. They very generally feel that the Prairie Oil & Gas Company has made every effort they could reasonably be asked to make to take care of the production; that laboring under the disadvantages they have been compelled to labor under, with apparently the main object of the Interior Department being to prevent the Prairie Company from laying lines in the field, they feel generally that they have done remarkably well to do as much as they have done.

Q. And so in regard to their dealings with the producers?—A. They have been very fair.

Q. And that is the sentiment and opinion of the producers?—A. Yes, sir.

Q. To your knowledge?—A. Yes, sir.

Cross-examination by Mr. KELLOGG:

Q. When did you commence to produce in Oklahoma?—A. In the beginning of 1905.

11830 Q. Were you a producer in Kansas before that?—A. No, sir.

Q. How long have you lived at Lawrence, Kansas?—A. Since 1889.

Q. When you speak of the regulations of the Department which prevent the laying of pipes by the Prairie Oil & Gas, what regulations do you refer to?—A. Those promulgated in December, 1906.

Q. What are they? What particular ones do you refer to that are objectionable to the Prairie Oil & Gas Company?

Mr. MILLER. Show him the document.

Mr. KELLOGG. He has been testifying about them. I wish him to tell.

A. Taken all together they are objectionable.

Q. In what respect?—A. They are a set of rules laid down by men who know nothing about the oil business for other people to operate under.

Q. How do you know they are?—A. That is the general understanding.

Q. Now, what rules do you say are objectionable?

Mr. MILLER. Show them to the witness.

Q. Yes. [Handing witness document.] What rules do you say are objectionable to the Prairie Oil & Gas Company?—A. First, I should say that it would be decidedly objectionable to them or any other company that wished to do legitimate business to be subject to the dictation of the Secretary as to how they should handle their own business.

Q. That is, you think there should be no regulations at all?

Mr. MILLER. He hasn't said that. I object to that.

A. I did not say that.

11831 Q. What regulations do you think there should be?—A. I am not here to make regulations. I am merely criticizing those.

Q. You say it is objectionable to be subject to the dictation of the Secretary of the Interior.—A. No man that intended going into the pipe-line business, in my judgment, would put any money into a proposition of that kind under such a set of regulations unless he was doing it with the idea of simply evading the provisions of it.

Q. What regulation do you refer to? You say this set of regulations, but what is there in the regulations that they object to?—A. Well, I could not say what they object to. I am merely giving you my idea of the matter.

Q. What do you object to?—A. I would object, as I say, to the Secretary's having the right at any time that he fancied—some producer has a grievance, for instance, and comes to the Secretary and says, "Here, they are not treating me right." Mr. Secretary has it in his power simply to take over the whole proposition, operate it as he pleases, tell them to step down and out.

Q. Now, where is the provision that provides that?—A. Read the last part of it.

Q. The 19th rule provides if they do not comply with the regulations in the other rules.

Mr. MILLER. Now, you haven't read it. Why not read it to him?

Q. (Reading.) "It is made hereby an express condition of the acceptance of a permit or permission to build or operate a

11832 pipe line and appurtenances under these regulations"—A. Yes.

Mr. MILLER. You haven't read all of it, have you?

Q. (Reading.) —"that if at any time the Secretary of the Interior shall be satisfied that any of the provisions of these regulations"—

Mr. MILLER. That is it.

A. Yes.

Q. Now, is there any regulation there that he may do that if a producer is not satisfied? Do you know of any such thing in the regulations that he has laid down?

(The document was handed to the witness.)

A. Will you state your question again?

Q. Is there any regulation that he may take possession of the pipe line if a producer is not satisfied, as you said a few moments ago?—A. It says whenever he is satisfied——

Q. Satisfied of what?—A. That they have not conformed to the letter of his regulations.

Q. Does it say that? It says has not conformed to the regulations, doesn't it?—A. Yes.

Q. Now, what regulations are you talking about?—A. Well, here I can give you some of them.

Q. Now, just give them to us—that you think are unreasonable. Name some of them.

(The witness looks through the document.)

A. Here is one regulation on page 2.

Q. What is it? Read it.—A. "No application for the construction of a pipe line will be approved unless the applicant agrees that such pipe line shall be held to be a common carrier"——

11833 Q. You think that is objectionable?—A. —"and agrees to all the provisions hereof." I do, decidedly.

Q. Now, do you know that that is the law of Pennsylvania, Ohio, and the State of New York as to all pipe lines?—A. I know nothing as to that.

Q. If such is the law, do you think it is unreasonable that the Secretary makes the same regulations that they do in Pennsylvania, in Ohio, and in New York?—A. It would not make it practical if they made it the law in forty States.

Q. Do you know that has been the law in Pennsylvania for many years and they have operated under it?—A. No, sir; I have no knowledge as to that.

Q. You don't know anything about it?—A. No.

Q. Well, it has been.—A. It may be. A great many foolish things have been done in the last forty years.

Q. You think it is unreasonable, do you?—A. Yes, sir.

Q. That they should be made common carriers?—A. I do, indeed.

Q. Are there any others in there that you object to?—A. I think I could find a few others, probably.

Mr. MILLER. Take 19.

Mr. KELLOGG. That is not a regulation.

Mr. MILLER. Oh, yes it is. Ask the witness.

Mr. KELLOGG. 19 is the forfeiture clause if they do not comply with the regulations. Now, I have asked him what regulations are objectionable.

WITNESS. Here is one thing that strikes me as a very

11834 unfair proposition.

Q. All right, read it.—A. After stipulating as to what he may require them to do in the way of laying lines—that I have no objection to; "and if in the exercise of this authority a question shall arise as to the fairness of such proceeding, the decision of the Secretary of the Interior therein shall be final."

Q. You think it ought not to be?—A. I do. I think such matters should be determined by the courts.

Q. Any other you have got objection to?—A. I will go on down the line. I will probably find several others.

Q. All right; let us have them. Let me see that last one, please.—A. It is in section 4, page 3.

Q. Let me see it; I haven't got another copy of it.

Mr. MILLER. Particularly if you are going to lose your investment.

Q. Reading the whole section, it is as follows: "The approval of any application for oil pipe lines and other privileges is on the condition that the permittees thereof shall accept and deliver shipments of oil at any regular station on their line. The Secretary of the Interior may, if he believes such action necessary and practicable, require individuals or companies granted rights of way for pipe lines hereunder to construct additional stations and extend their lines to particular wells or pools at their own expense; and if in the exercise of this authority a question shall arise as to the fairness of such proceeding, the decision of the Secretary of the Interior
11835 therein shall be final." That is, you don't object to that clause requiring them to build the additional lines?—A. Oh, no; I merely cite that as showing the way he interpreted his authority.

Q. You think it is entirely fair that he should require them to build additional lines, do you?—A. That is a matter that they will take care of themselves.

Q. You said you had no objection to it. What do you mean by having no objection to that part of it?

Mr. MILLER. Let him answer your question.

Q. As I understood you, you said you had no objection to the provision requiring them to extend their lines?—A. None whatever.

Q. You think that is fair?—A. That is a matter they are doing constantly.

Q. You think that is fair, do you?—A. Yes; that part of it.

Q. But you think the court ought to decide whether they shall obey the requirement and not the Secretary?—A. I do not believe that the business of any such organization should be subject to the dictation or the whim of any one man, Secretary, or anyone else.

Q. Now, what other objection have you got to the regulations?—A. Here is a provision in section 7.

Q. What is it?—A. He strikes out a pretty big contract, but I think it would be objectionable.

Q. What is it?—A. (Reading.) "The Secretary of the Interior will establish such administrative regulations from time to time as shall secure to the shipper, who delivers oil to the pipe line to
11836 become part of a common stock, the ability to withdraw from such stock an equal quantity of oil of corresponding grade and value, and for this purpose may require, after full hearing and inquiry, the separate transportation and storage of oils of different grades and value." That is something that is thoroughly impractical,

could not be worked out, and I would not want anything to do with a pipe line under those regulations.

Q. You sell your oil now as all one grade, do you?—A. No, sir.

Q. You sell it as separate grades, do you?—A. We are unfortunate enough to have some low-grade oil.

Q. Do they mingle those separate grades in their pipe lines, do you know?—A. They do. That is the only way that they can handle it.

Q. Has there been any regulation made yet that they should keep each grade separate?—A. They are not operating as common carriers. If they were, then he would have a right to raise that question.

Q. He has not yet required anybody to do that, has he?—A. There has been no chance for it.

Q. The Gulf Pipe Line and the Texas Pipe Line were built under these regulations?—A. Yes, sir.

Q. Now, has he ever made an order requiring them to do that?—A. No, sir; not that I know of.

Q. You think it is objectionable that he should have any authority to go into that subject at all, do you?

Mr. MILLER. I object to that. The witness has not said that.

11837 A. That is not my statement.

Q. Then the Prairie Oil & Gas Company have built no pipe lines over Indian lands since these regulations, have they?—A. They have.

Q. Have they?—A. Yes, sir.

Q. Under these regulations?—A. Not under those regulations, no, sir.

Q. Does not the Interior Department require them to comply with these regulations?—A. No, sir.

Q. It does not?—A. No, sir.

Q. Then they are not obliged to comply with these at all, you say?—A. The Interior Department gave them a permit to lay an 8-inch line from Caney to the Shallow field, exempting them from the provisions of those regulations.

Q. When was that?—A. That was granted some time last spring.

Q. Then they are permitted to go in there and build a pipe line without complying with these, are they?—A. In that one instance they were.

Q. Have they in other instances?—A. Not that I know of.

Q. Have they declined to build pipe lines under these regulations?—A. They have.

Q. You think, then, that the regulations ought to be repealed, do you?—A. I think they are a very ill-advised set of regulations, to put it mildly.

Q. There are regulations against one owner acquiring more than a certain number of leases, are there not?—A. I believe there are; yes, sir.

11838 You think those are ill-advised, do you?—A. I don't know that I would say that. I think there has been a very different

result in building under those regulations from what the Department anticipated.

Q. Now, let us see. There are regulations prohibiting the acquisition of more than a certain number of leases by one person or corporation?—A. Yes, sir.

Q. How many leases are permitted?—A. 4,800 acres.

Q. You think that is unreasonable?—A. I don't know that I would say it was.

Q. It has been objected to pretty seriously by some producers, hasn't it?—A. Yes.

Q. And there has been a good deal of feeling on that account?—

Q. 4,800 acres—what do you mean by that?—A. The regulations than to the regulations themselves.

Q. What interpretation?—A. The utter lack of business sense that seems to be applied to the meaning of that.

Q. 4,800 acres—what do you means by that?—A. The regulations are that no person or company shall hold more than 4,800 acres of leases. By implication they say, and in effect they say, that any company or individual may hold 4,800 acres; but in the interpretation of those regulations they state this foolish principle, that if a man holds one share of stock in a company incorporated, say, for a million dollars, that has 4,800 acres of leases, its full quota, that that man is barred from holding another share of stock in another company or from holding a lease in his own name. Now, it is just such things as that that make all those regulations intensely objectionable.

11839 Q. If they did not have those regulations as to common ownership, then one man or a dozen men or half a dozen men could organize as many corporations as they saw fit, have a community of interest in the stock, and control all the leases in that community, couldn't they?—A. No, sir.

Q. Why not? They have got to prevent corporations having common ownership of stock, haven't they, in order to prevent one man from controlling the whole business?——A. Oh, you refer to one corporation holding the stock of another?

Q. No, I refer to individuals.—A. Not at all.

Q. Suppose half a dozen individuals should organize fifty companies. If your theory is correct, those half dozen individuals could control fifty companies, couldn't they?—A. I don't see how.

Q. Do you think any corporation should be permitted to have 4,800 acres irrespective of who the stockholders are?—A. I do, indeed, or else they should repeal that provision.

Q. That would permit a common lot of stockholders to control all the companies, wouldn't it?—A. No, sir.

Q. Why not?—A. If they wish to be fair in their interpretation of their regulations they would say: "If you have one-tenth of 4,800 acres in this company and one-half in another, whenever your total holdings of stock interest"—and they have the list of all these stockholders and the acreage of all these companies right before them—

"whenever your holdings aggregate 4,800 acres you have your share and you quit."

(A recess was here taken until 2 o'clock p. m., at which time the cross-examination was resumed by Mr. Kellogg.)

11840 Q. Mr. Greenlees, do you sell all your oil to the Prairie Oil & Gas Company except that which you sell to the independent refiners in Kansas?—A. No; we are selling some to the Gulf people.

Q. What proportion of your oil have you sold to the Gulf?—A. A very small proportion. We sold a lease to them and are taking half the oil until it is paid out.

Q. Practically the Prairie is your only purchaser except what you sell to the independents?—A. Yes, sir, mainly.

Q. And has been? How much, proportionately, do you sell to the independent refineries, and what refineries?—A. I am unable to give you exact figures. We are selling all that we can to the Kansas Cooperative Refining Company at Chanute and to the Kansas Oil Refining Company at Chanute. We sold some to the Kansas City Oil Company.

Q. Is that a small proportion of your total output or a large proportion?—A. Comparatively small.

Q. About what per cent?—A. Oh, I should say that of what we have sold in the last two or three months probably we have shipped one-third or from a quarter to one-third of our total production of the Alluwe Oil Company to the independents.

Q. That is one company?—A. Yes, sir.

Q. Well, I mean of all the oil companies that you have mentioned here, all that you are interested in.—A. It would be a very small part.

Q. It would be a very small part?—A. Yes.

Q. It would not be one-quarter?—A. No.

Q. Would it be five per cent?—A. I presume five to ten, somewhere there.

11841 Q. When did you commence to sell to the independent refineries?—A. Commenced to sell to them about 60 or 90 days ago.

Q. That was the first you had ever sold them?—A. Yes, sir.

Q. At what price do you sell to them?—A. 41 cents.

Q. The same price?—A. Yes, sir.

Q. Have any of the Kansas refineries paid a premium over the Prairie Oil & Gas?—A. I am unable to say as to that. We get a pipeage charge of 5 cents for piping and loading.

Q. But you do not get that charge when you deliver to the Standard?—A. No. In one instance we built our own lines, had our own men to load the cars, and in the other we turned it into the Standard or Prairie pipes at our tanks.

Q. These independents ship by cars entirely, do they?—A. Yes.

Q. Do you know of any of the independents paying a premium over and above what the Prairie Oil & Gas Company pays?—A. Not down through the field; no, sir.

Q. Well, in Kansas?—A. Locally in Kansas I presume they do; in fact, they told me they do.

Q. They pay more than the Standard pays in Kansas?—A. In some cases, yes.

Q. Now, these independent refineries which have gone into Kansas have practically all been constructed during 1906 and since that time, haven't they?—A. I don't remember just the date, but within the last three years.

Q. Haven't they mostly within the last two years?—A. I would hardly say as to that. I think most of them were running
11842 about two years ago; just the exact date they were built I could not say.

Q. In 1904 there was only one independent refinery there, was there, and that was the Webster?—A. I don't remember whether any of the others started that early or not.

Q. And they commenced to build some in 1905, and then built in 1906, and some are building up to the present time, aren't they?—A. Yes, sir.

Q. Have the construction of independent refineries in Kansas been a benefit to the producer and the consumer of oil in Kansas?—A. I am not prepared to say as to the Kansas field. They have been a small benefit probably to the rest of the field, but the amount they take is very small as compared with the total.

Q. Has not the price of illuminating oil decreased from about 14 and 15 cents in Kansas to 9 cents, since the construction of these independent refineries?—A. I am not very familiar with the price of illuminating oil, but I should imagine that there had been probably a corresponding decrease to the decrease in the price of crude.

Q. Has there been a decrease from about 14 or 15 cents to about 9 cents in Kansas?—A. You refer to the retail price?

Q. Yes. I mean what is known as the price to the retail dealer.—A. I don't know as to that; I am not in a position to have personal knowledge.

Q. Are you interested in any refineries?—A. No, sir. I looked into the matter some.

Q. Is it not a fact that the price has been made substantially uniform to retailers, freight excluded, however, all over Kansas?—A. I do not understand it to be so.

11843 Q. Isn't the price to-day, and hasn't it been since the anti-discrimination law in 1905, substantially uniform to retail dealers all over Kansas, except the difference, of course, in freight?—A. I hardly think so.

Q. Well, where can you give us an exception?—A. I have only the word of these refineries on that matter. They tell me that there have been a good many cases where the prices have been pretty badly cut to pieces. Some fellow would get a lot of oil on hand that he had to sell, and no place to put it, and he would dump it into some town and cut the price. That is what they accuse one another of doing.

Q. Do you think it is a good thing to have independent refineries in that territory?—A. Yes, sir.

Q. Do you think it is a good thing to have as many buyers of crude oil as there can be in that territory?—A. Yes, sir.

Q. Then you do not believe it to be a good thing to have the Prairie Oil & Gas Company the only purchaser?—A. Well, I don't know as to that. It would not be so bad.

Q. You think that would be just as well?—A. In localities where they have been the only purchaser we have fared much better than where there were the other lines.

Q. You are referring now to the Gulf and the Texas?—A. Yes, sir; I am referring to the difference between the Shallow field and the Glenn Pool.

Q. But you are referring to the other lines, the Gulf and the Texas?—A. Yes, sir; the only lines of any capacity.

Q. You do not think the independent refining purchasers have hurt the price of oil?—A. Oh, no. They all buy just as cheap
11844 as they can.

Q. Of course. Now, do you know of any competition between the Gulf and the Texas and the Prairie?—A. I should say yes.

Q. What competition?—A. The situation is this: There has been up to this time more oil in the Glenn Pool than they could all handle. The Prairie have taken what they could, have tanked a considerable quantity, and the Gulf and Texas people have apparently vied with each other to see who could buy the cheapest. I would say there was competition of that kind.

Q. That competition is down instead of up?—A. Yes, inverse ratio.

Q. You don't know of any competition as to prices in that territory whereby any one of these companies has bid over the other?—A. Yes.

Q. Where?—A. The Prairie have bid over the others continually up to their capacity.

Q. They have had a fixed price?—A. Yes.

Q. They have a fixed price in Kansas, haven't they?—A. Yes, sir.

Q. And they make the same price in both places?—A. Yes, sir.

Q. The other two are not in Kansas at all, are they?—No, sir.

Q. They are in central Oklahoma?—A. Yes, sir.

Q. And there has not been in that territory where the other two exist any competition, bidding against each other for oil, has there?—A. Yes.

Q. Well, what?—A. Yes; the Texas company have been
11845 sending out their bids to producers or asking the producers to submit bids. They do not connect your tanks at all, understand, and run your oil, but they will send you notice that they will receive bids for oil from such a period to such a period, and blank quantities and blank price. The producer who is the hardest up, either for room or money, will make the deepest cut, and I notice they always buy from the low man.

Q. Yes, naturally. Now, that is the only competition you know of?—A. Yes, sir.

Q. Were you in Kansas at the time of this special session of the legislature and this agitation over the Prairie Oil & Gas Company?—A. Why, I have been there since 1889; that is my home.

Q. Did you ever hear of that?—A. I heard of it; yes.

Q. There was a great deal of agitation and bitter feeling at that time, wasn't there?—A. I don't know as to the feeling. There was more or less agitation in the papers.

Q. What laws did that agitation lead to?

Mr. MILLER. I object to this as not proper cross-examination, and on the grounds stated to questions about this same subject-matter, by Mr. Kellogg on cross-examination, to the previous witness.

Mr. KELLOGG. It may all be taken subject to the same objection.

Q. Will you please answer the question?—A. I believe they passed a State refinery bill and what they call an antidiscrimination bill and a rate bill. I think that was about all.

Q. The rate bill was fixing the rates on the transportation
11846 of petroleum?—A. Petroleum and crude oil.

Q. And it very largely reduced the rates on railroads, didn't it?—A. I believe it did. I am not familiar with those rates.

Q. The refinery bill was declared unconstitutional, wasn't it, as you recollect?—A. I believe so.

Q. That was done in order to make a market for the oil, wasn't it?

Mr. MILLER. I object to that. You mean it was declared unconstitutional to make a market?

Mr. KELLOGG. No; I mean the passage of the bill.

Mr. MILLER. I object to that on the ground that the witness is incompetent.

Mr. KELLOGG. Oh he has lived there; he knows.

Q. Wasn't that the object?

Mr. MILLER. You can not prove the object of a legislature in passing a bill by any such evidence as this.

Q. Is it not a fact that the producers took a great deal of interest in that matter and held meetings?—A. I do not know that to be a fact. I never had any part in any of it. I considered it very ill advised.

Q. You thought it was ill advised? It was a pretty general movement, wasn't it?—A. I could not say as to that.

Q. You don't know? When was it—in 1905?—A. About that time, I think.

Q. You heard a good deal about it, didn't you?—A. Only what I read in the papers.

Q. Were not charges of discrimination made against the Prairie Oil & Gas Company at the same time?

11847 Mr. MILLER. I object to this on the same grounds that all this evidence goes in on, and also as incompetent, immaterial, and irrelevant.

Q. Please answer—A. Discrimination?

Q. By the Prairie Oil & Gas Company?—A. I don't know; there may have been such. It was about the time they established a different buying basis.

Q. That is, they established at that time 5 cents difference for each half degree of the grade of the oil, didn't they?—A. I could not say as to that. The difference so far back as I remember anything about it has been 3 cents until you get down to 30-gravity oil.

established?

Q. You don't remember, then, in 1905 what difference they

Mr. MILLER. He does not know.

A. I don't remember anything further than what I state. I know that is the difference that has existed for the past two or three years; I don't remember just how long.

Q. Isn't it a fact that in 1905 they established a 5-cent difference for each half degree of oil?—A. I could not say as to that.

Q. Isn't it a fact that charges were made that they discriminated against Kansas and in favor of Oklahoma?—A. I could not say as to that.

Q. That they pulled up their pipe lines, some of them, in Kansas and removed the material from Kansas into Oklahoma?—A. I know nothing about that. I would not blame them if they had.

11848 Q. You would not?—A. No.

Q. They did do it, didn't they?—A. I could not say.

Q. Isn't it a fact that they largely increased their taking of oil from Oklahoma and decreased it from Kansas?—A. They largely increased in Oklahoma; I am familiar with that. As a result of the changing conditions practically all of the operators went to Oklahoma.

Q. You have lived in Lawrence for how many years?—A. About twenty.

Q. And you have told all you know or heard about that agitation which took place in Kansas, have you?—A. Substantially; yes, sir.

Q. You have very little recollection on the subject?—A. I never gave it any particular attention; I took no part in it.

Q. I have not asked you if you gave it particular attention or if you took part in it. I have asked you if you heard of it?—A. Only, as I state, through the papers.

Q. The papers were full of it, weren't they?—A. There was some talk of it.

Q. Don't you remember that the governor called a special session of the legislature?—A. I am not sure, but I think he did.

Q. And delivered several messages on the subject?—A. There was a good deal of talk about the State refinery, I remember.

Q. What was the cause of all that agitation?—A. I am unable to say.

11849 Q. You don't know?—A. No.

Q. You don't know anything about it?—A. No.

Q. You don't know whether it was feeling against the Prairie Oil & Gas or some other company?—A. I don't know, personally, anything about it except, as I say, what I read through the newspapers.

Q. What you heard?—A. Well, I heard very little of it. I spent my time almost entirely in Oklahoma or in the Indian Territory.

Q. You were away at that time?—A. I was home every week, but spent most of the time in the Oklahoma field.

Q. Now, you say that the depreciation in storing oil the first year is about 10 per cent?—A. I say it depends upon the gravity of the oil. In the higher gravity oil or the oil that contains large gasoline contents it is substantially that.

Q. Have you ever measured it to see?—A. I have watched our own tanks pretty closely; yes, sir.

Q. Have you measured the actual degrees decrease in any one tank to see how much it was in a year?—A. I never kept any that long. We had some tanks that stood in the open for about eight or nine months, and I based by judgment on those.

Q. Did you actually measure the amount of depreciation?—A. I could not give you the exact figures, but I know that in those tanks it exceeded the amount that I state.

Q. Did you measure to see?—A. Yes, sir.

Q. And it decreased over ten per cent in eight or nine months?—A. Yes, sir.

Q. You heard the testimony of the expert of the Standard
11850 Oil here the other day, Dr. Burton, that it would decrease about two or three per cent the first year?—A. No, I didn't hear that.

Q. You didn't hear that?—A. No. That would depend, in my judgment, very largely upon the oil.

Mr. MILLER. That was Lima oil he was testifying about.

Q. You don't know anything about whether it is a paying business for the Standard Oil Company to buy that oil and store it for six or eight or ten years, do you?—A. I know enough about it that I don't want any of it in mine.

Q. You are not manufacturing oil, are you?—A. No, sir.

Q. Do you think they are buying 40 or 50 million barrels of oil for the purpose of losing money on it?—A. No, I don't believe they are, and I hope they won't. They are entitled to make something on it, but my judgment would be their chances are rather slim.

Q. The earnings of the Standard Oil in the past would not indicate any slimness of chance, would it?—A. I don't know anything about their earnings, but I fancy they are not made out of the stored oil.

Q. They are made out of manufactured oil, aren't they?—A. The gasoline is the most valuable part of those oils, and if that has evaporated, as it most assuredly will do in these storage tanks, what is to-day the most valuable product is gone.

Q. Do you say that all the gasoline product evaporates from the storage tanks?—A. I would not say that it all does, but it very largely will.

Q. Have you ever been a manufacturer?—A. No, sir; I have looked into the subject somewhat.

11851 Q. Are you an expert chemist?—A. No, sir. I know a little about the matter.

Q. Have you ever stored oil and manufactured it afterwards?—A. No, sir.

Q. Then, you don't know anything about it except, I presume, as you have observed it?—A. Well, more than that.

Q. What?—A. I have looked into the business as fully as I could.

Q. Into the business of manufacturing?—A. Yes.

Q. Investigated it?—A. Yes, sir.

Q. What has been your investigation?—A. In what way do you mean?

Q. Why, into the manufacturing.

Mr. MILLER. In refined oil?

A. I have looked into the matter to satisfy myself whether it would be advisable for us to engage in it.

Q. And have you figured the cost of manufacturing and the profits of manufacturing it?—A. I have, yes, sir.

Q. Is there any risk in drilling wells and producing oil?—A. Yes, sir.

Q. Great risks or not much?—A. That depends upon circumstances.

Q. Well, take it as a whole.—A. If you are fortunate in getting hold of a piece of inside property the risk is not so great.

Q. Suppose you are not fortunate in getting inside property?—A. Then the risk is great.

Q. Taking it as a whole is it a business of more or less risk?—A. It is.

11852 Q. A great deal of risk?—A. Considerable.

Q. A dood many producers make no money at all?—A. A good many of them, yes, sir.

Q. A good many of them lose money?—A. Well, occasionally.

Q. And some of them make money?—A. Yes, sir.

Q. Where do you produce mostly, what field?—A. In the Shallow field and the Glenn Pool.

Q. In the Glenn Pool you sell all of your oil as one grade?—A. Yes, sir.

Q. 32 or better?—A. Yes, sir.

Q. The same price?—A. We are fortunate in not having any low-grade oil there.

Q. In the Shallow field what price do you sell your oil at?—A. On the basis of 32, with the lower price for the lower grade.

Q. Most of it 32?—A. Most of it. Part of it is low grade.

Q. In both fields, of Kansas and Oklahoma, the large percentage of the oil is 32 or better, isn't it?—A. Did you say Kansas and Oklahoma?

Q. Yes.—A. I should say a large percentage of the Kansas oil would be under 32.

Q. How about Oklahoma?—A. And a large percentage of the Oklahoma oil would be over 32.

Q. A very large percentage, isn't it?—A. I could not say just how large, but a pretty fair percentage of it.

Q. In 1905 the Prairie Oil & Gas Company was practically the only purchaser in the Oklahoma field, wasn't it?—A. Substantially so, yes.

11853 Q. In 1905?—A. Yes.

Q. Is it not a fact that in both fields, in 1905, from 92 to 94 per cent of the oil produced and purchased by the Prairie Oil & Gas Company was 32 and over?—A. I could not say as to that.

Q. You have no opinion one way or the other, whether that was so or not?—A. I should say that was an excessive estimate.

Mr. MILLER. Have you evidence otherwise?

Mr. KELLOGG. Simply the report of the Prairie Oil & Gas Company.

Mr. MILLER. Is that in evidence?

Mr. KELLOGG. It has not been put in evidence yet.

Mr. MILLER. If you have any report on it, why isn't that better evidence?

Mr. KELLOGG. Well, all right.

Q. Their report for the month of May, 1905, shows 745,738.32 barrels of 32 and over, out of a total of 784,228.69 barrels.

Mr. MILLER. I object to this statement.

Q. Is that about your recollection of it?—A. I don't claim to know.

Q. Do you know as to any year or any month?—A. No, sir.

Q. You have no figures on the subject at all?—A. No, sir.

Q. Then when you say that the larger part of the greater percentage of the oil in Kansas is under 32 you don't know anything about it?—A. Well, I am pretty certain of that. I have been through that field more or less. There is a great deal of low-grade oil there.

Q. There is a great deal more high-grade oil in Oklahoma, isn't there?—A. Yes, sir. I might say on that line, too, as

11854 I understand the matter, that there is a great deal of low-gravity oil that was not purchased by the Prairie, but was shipped as fuel oil by parties who were handling fuel oils.

Q. The amount of oil that was ever shipped as fuel is a small percentage as compared with the total, isn't it?—A. Oh, I presume so.

Q. Very small. And about 1904 the freight rates were increased on the fuel oil, weren't they?—A. I could not say as to that; I did not notice.

Q. You did not ship any?—A. No, sir.

Q. These various companies which you name here, in which you are interested or are manager of, are any of the Prairie Oil & Gas Company officials interested in them?—A. No, sir.

Q. Have Standard Oil Company parties any interest in them?—A. No, sir.

Q. Is Mr. Barnsdall interested in them?—A. No, sir.

Q. Do you know Mr. Barnsdall?—A. No, sir.

Q. Never heard of him?—A. Oh, I have heard of him; I leased a little land to him.

Q. What?—A. I leased a little land to him, but I never met him.

Q. Are his companies large producing companies?—A. I could not say as to that.

Q. You are not very well acquainted with the producers, then?—A. Yes; I know a great many of the producers.

Q. You don't know but a small number of them compared to the whole, do you?—A. Well, I don't know as to that. I have met a great many of them that I could not call by name.

Q. How many are there in the oil field?—A. I am unable
11855 to say, but I should judge, all told, there must be somewhere from one to two thousand.

Q. Then you know a very small percentage of them, don't you, personally?—A. Comparatively so.

Q. You have talked with very few of them, haven't you, personally?—A. I have talked to a good many; I could not say how many.

Q. Your opinion is there are not pipe lines and purchasers enough of oil in that territory?—A. There may be purchasers enough, but certainly there are not enough pipe lines.

Q. It does not require a great length of time to construct a pipe line, does it, from, say, Kansas into Oklahoma?—A. That depends on how long the line is and how heavy.

Q. They construct them pretty rapidly, don't they?—A. Comparatively so.

Q. Do you think three years has been long enough time to construct enough pipe lines into that territory to take care of the oil?—A. I think probably it has if the Government had permitted it.

Q. That is, if the Government had permitted the unlimited construction, without any regulations at all?—A. Yes, sir; if they had kept their regulations out of the way I believe we would have had a sufficient number of pipe lines to-day to take care of every barrel of our production.

Q. The larger part of the production in Oklahoma is on Indian lands, isn't it?—A. The considerable part of it.

Q. More than half of it, isn't it?—A. What do you mean
11856 by Indian lands? Do you mean lands that are subject to the regulations of the Interior Department, or those from which the restrictions have been removed as well?

Q. Lands that are owned by the Indians.—A. The greater part of the production is on such land.

Q. Is the larger part of the production of Oklahoma subject to Government regulation over the Indian lands?—A. It has been up to the 27th of last July. Whether it is since that time I am unable to say. A considerable percentage is no longer under their jurisdiction.

Q. You think the Government ought to remove all restrictions as to the Indians dealing with or handling their leases on lands, do you?—A. I believe it would be a blessing to most of the Indians as well as to the producers.

Q. And let them do as they please?—A. I think it would be wise.

Q. How long do you think an Indian would have anything left if that were done?—A. That depends on the Indian as well as on the white man. There are plenty of Indians down there that would skin any white man in this room out of his eye teeth.

Q. They wouldn't get any chance, would they?—A. Well, they have done it time and time again.

Q. You have a grievance against the Government because they have not removed these restrictions and given you an unlimited right to obtain leases?—A. No, I don't care as to that; I have got past that.

Q. You have?—A. Yes, sir.

Q. There was a time when you objected to it, was there?—A. Oh,
I have objected strenuously to the way the Government
11857 has treated us down there; yes, sir.

Q. You didn't want any restriction as to the amount of dealings you could have with the Indians, did you?—A. I had no objections to the regulations if they were of ordinary business sense.

Q. If they suited you? You wanted them to comply with your idea of business sense, did you?—A. Oh, not at all. The trouble is they never brought business ideas into their regulations. They were promulgated by men who knew nothing whatever about an oil well, couldn't tell one from a balloon, most of them, and they made the regulations that we had to work under. Who wouldn't be worried by them?

Q. Now, who promulgated them?—A. I suppose they came from the Secretary of the Interior.

Q. You don't know where they came from, I suppose—who investigated it or got up the regulations, do you?—A. I know a little about it. I know that he says they are promulgated by him.

Q. They are ultimately, I suppose.—A. Yes.

Redirect examination by Mr. MILLER:

Q. If there was any suggestion in the latter part of Mr. Kellogg's cross-examination that the producers of oil in Oklahoma wanted to get rid of the Interior Department's regulations in order to take advantage or get advantage of the Indians in that section of the
country, what do you say the fact about that is?—A. I
11858 should say that it was not the case. They have appealed to
the Secretary time and again because of the regulations that were being promulgated. For instance——

Q. You mean the producers have?—A. Yes, sir. We have sent committees to Washington to see the Secretary repeatedly over these matters. It is a comparatively recent thing that Mr. Secretary, after the great bulk of that land had been leased, took a notion into his head that "here we have not skinned them quite hard enough, we will give them another jolt," and announced that all the leases taken on a 10 per cent royalty basis should be arbitrarily changed, without our having one word to say in regard to the matter,

to a 12½ per cent basis, and with the possibility of doubling it up again. That is one of the grievances we have had. We do not believe that he has the arbitrary right to take what we have paid our money for, on a certain basis, and I will say this, that all these leases have been taken under the instructions sent out by the Interior Department, on the forms prescribed by them, and latterly they printed the forms and furnished them.

Q. Now I am referring particularly to the regulations which we offered in evidence this morning, that relate to the construction, operation, and maintenance of pipe lines, pumping stations, and storage tanks for the transportation and storing of oil through lands in Oklahoma and Indian Territories. Is there anything whatever in your objections that you spoke of, your criticisms of the reasonableness, the practicability of these regulations, in your cross-examination to-day, that in any way involves any issue or question between the producers and the Indian? Is there anything in these pipe
11859 line regulations that involve questions between the producers and the Indians, that you objected to this morning?—A. Those regulations, of course, interfere with us as producers and with the Indians as landowners, by preventing the building of lines that are needed to take care of our production.

Q. Yes, I understand, but is there anything in your objections to these regulations that involves the interest of the Indian lessors as against the producers of oil who are their lessees? Does it involve any issue between them, the lessors and the lessees—these pipe line regulations?—A. I don't know that I just get your meaning.

Q. Well, take the condition in regulation 19, that the "acceptance of a permit or permission to build or operate a pipe line . . . that if at any time the Secretary of the Interior shall be satisfied that any of the provisions of these regulations, or of any amendments or changes thereof hereafter established have been or are being violated, the said Secretary of the Interior, after ten days' notice to the owner or owners of such pipe line of his intention so to do, shall have authority summarily to suspend, cancel, or revoke said permission to construct or operate such pipe line, pumping stations, and storage tanks. . . . And upon such suspension, cancellation, or revocation of permission, and during the period of its suspension the Secretary of the Interior shall have power to place in charge of such pipe line and its appurtenances a person to be designated by him, who shall be accountable to him and shall manage and operate the same under his direction." Is there anything in that, or in your objec-
11860 tions to that, which presents any question of difference between the producers of oil and their Indian lessors that has been a subject of issue between you? I mean between the lessor and the lessee. Do you understand my question?—A. I am not right sure that I do.

Mr. MILLER. Well, strike that out.

Q. What do you mean by stating that certain of the restrictions existed on Indian lands up to July 27, 1908, and were thereafter re-

moved? Was that relating to the leasing of lands by the Indians?—A. It has to do with it, yes, sir.

Q. Did it have to do with the pipe line question?—A. Only indirectly with the pipe line question.

Q. What were the restrictions that were removed?—A. These were all Indian lands, formerly held in common by the tribe, but recently allotted in severalty, and these Indian people took their lands, took title to their lands, which had to be approved by the Secretary of the Interior, with the proviso that they should not have authority to lease or alienate those lands except with the approval of the Secretary of the Interior. The last Congress passed an act removing all of those restrictions upon their lands from certain of those people. I believe from all less than half-blood they were entirely removed, and of the balance it would depend upon the degree of blood as to the amount that was left restricted. When those restrictions were removed you could go and take a commercial lease from them, the same as you would in any State, without the approval of the Secretary.

Q. They had the power to sell and dispose of or lease their lands as other real estate owners?—A. Yes, sir.

Q. Now, referring to the question of pipe lines into the
11861 Oklahoma territory, do you know of any effort being made or suggestion being made to other pipe line companies than those that have lines running into Oklahoma, with reference to their building or extending lines there?—A. Yes, sir.

Q. What do you mean—that some effort was made to interest them in that enterprise?—A. A considerable effort was made, I presume. Nearly everybody who had production realized that we must have pipe lines to take care of our oil. There was an immense field opening up and no adequate facilities for removing it. I took the matter up personally with the Shell people of London, and I also took it up with the Pure Oil Company; tried to get them to come down there and build a line to the Gulf, pointed out the feasibility of it, but was unsuccessful in getting anything done. The Shell people told me that if we would build a line and deliver oil at the seaboard they would contract with us.

Q. They would contract to take your oil?—A. They did not say how much they would take, but that they would do business with us; but the great expense of building such a line prevented our doing anything of the kind.

Q. Who are these people whom you call the Shell people?—A. They are an English corporation or firm.

Q. Dealers in petroleum products?—A. Yes, sir; they handle large quantities from other parts of the world.

Q. Are they competitors of the Standard Oil Company?—A. I understand so.

Q. And who was the Pure Oil Company that you refer to? Is that an independent, and a competitor of the Standard Oil
11862 Company?—A. That is my understanding, yes, sir.

Q. Well, you did not get them to put their pipe lines in there?—A. No, sir.

Q. Do you know, and if so you may state, who some of the leading people are in this Pure Oil Company enterprise?—A. I am not acquainted with many of their people; I have met some of them.

Q. Who?—A. Mr. Webber.

Q. Where does he live?—A. Philadelphia, I believe.

Q. Who else?—A. I don't remember their names now.

Q. Did you go to Philadelphia to see him?—A. Yes, sir.

Q. Do you know Mr. Tarbell, who is treasurer of the Pure Oil Company?—A. I am not acquainted with him, no; I know of him.

Q. Did you meet him in connection with that matter?—A. I don't know whether I met him or not. I met the secretary.

Q. You don't know his name?—A. I think that is Mr. Webber. I am not positive. It has been some time ago.

Q. I think you said, Mr. Greenlees, upon your examination here with respect to the regulations of the Interior Department governing the pipe line question, which were offered in evidence as defendants' Exhibit 220, that these regulations were objectionable and impracticable with respect to certain of them which you pointed out.—A. Yes, sir.

Q. I think you pointed out some of them to Mr. Kellogg on cross-examination. I did not think that he had gotten through with asking you to point out the provisions there that were objectionable. Had you others?—A. I think there are some others; yes, sir.

11863 Q. Well, you might point them out now, and we will finish up Mr. Kellogg's cross-examination [handing witness defendants' Exhibit 220].—A. Here is one in section 7 that is objectionable, because the Secretary is to undertake to do something that is utterly beyond his power.

Q. What is that?—A. It says that "the Secretary of the Interior will establish such administrative regulations from time to time as shall secure to the shipper, who delivers oil to the pipe line to become part of a common stock, the ability to withdraw from such stock an equal quantity of oil of corresponding grade and value, and for this purpose may require, after full hearing and inquiry, the separate transportation and storage of oils of different grades and value."

Q. Now, you say that is absolutely impracticable, do you?—A. Yes, sir; I say that the Secretary can not do that.

Q. Could the pipe line carrier do it?—A. No, sir; not and operate a successful pipe line.

Q. And if the Secretary as an operator of a pipe line had no more skill than the pipe line carrier had, he could not do it? He could not send out regulations that would accomplish that?—A. Undoubtedly that is the fact.

Q. The provision you have just read was not put in there was it, to protect the Indian against the producer?—A. I am unable to say why it was placed there. I would not like to——

Q. You do not see anything in it that is intended to protect the Indian against the producer?—A. Not a thing.

Q. Now, what next?—A. Wait until I run through it.

11864 [Looking through defendants' Exhibit 220.] Here is one that to me is objectionable. It is section 16. "Where additional right of way is required for the location of pumping stations or sites for receiving and distributing tanks, application therefor shall be made in manner as herein provided for pipe lines." A long, tedious process that takes anywhere from one to two or three or six months, that you have got to go through before you have the right to put in the facilities that the producers are suffering for. These changes come up so rapidly. A large well is brought in in new territory and the other people rush in around it and develop, and in a very short time there is a large production to be taken care of. The producer and the Indian suffer if those facilities can not be given immediately. And if they have got to go through this long maze of red tape to get permission to do the thing that ought to be done, and then perhaps be held up as they have been in the past, we suffer. Here is another, section 17: "Any permit granted heretofore or under these regulations shall be subject to any changes or amendments in or to these regulations hereafter made by the Secretary of the Interior." There is the joker. That is where they caught us with our leases.

Q. What number is that?—A. 17. The Secretary may at any future time, if a line is built under these regulations, exercise his arbitrary power and force upon the pipe-line company that does build requirements that might bankrupt them, and they can not say a word if they build under these regulations. They can not even go into court to protect their property.

Q. Do you not find there some provision with respect to

11865 that? Take paragraph 19 there, that relates to the cancelation of the right of the pipe-line owner and the confiscation of his line. Do you not find in that a provision that there shall be some hearing before that?—A. Only before the Secretary.

Q. What does it say about a hearing before the Secretary, in paragraph 19?—A. (Reading.) "That if at any time the Secretary of the Interior shall be satisfied that any of the provisions of these regulations, or any amendments or changes thereof hereafter established, have been or are being violated, the said Secretary of the Interior, after ten days' notice to the owner or owners of such pipe-line of his intention"——

Q. Well, I don't see anything there of any right to a hearing before the Secretary. Is there anything else there that gives it?—A. No. Whenever the Secretary is satisfied——

Q. No matter how?—A. Why, he goes ahead, whether there is any foundation for it or not.

Q. And do you not find there some provision of the right of the pipe-line owner to go into some court and have a trial of his rights?—A. None whatever. He has no rights.

Q. Then, you read a provision there that made the determination of the Secretary of the Interior final, did you not?—A. Yes, sir.

Q. What is that?

Mr. KELLOGG. Do you want him to read it over again?

Mr. MILLER. No, I want to refer to it.

A. In section 4.

Q. That concerns what?—A. The operation, I should say; that if the Secretary thinks they should construct certain other
11866 lines and they do not see it that way, that he has the right to so build it or he will take the property.

Q. And his decision shall be final?—A. Shall be final—no appeal.

Q. What do you say as to whether those regulations are intended to attract pipe line builders into Oklahoma?—A. I should say that they were not so intended, but to keep them out.

Q. Were those regulations passed at the instance of the oil producers out in Oklahoma?—A. They were not. As I understand it, those regulations were passed at the instance of entirely different people.

Q. You don't mean, do you, the Prairie Oil & Gas Company?—A. No, sir, I do not. I think they were passed with the sole object of preventing the Prairie Oil & Gas Company from building additional lines, if you want to know what I think.

Q. That was not done at the instance of the producers down there who are producing oil and want to sell it?—A. Assuredly not. We remonstrated against these regulations as strong as we knew how, directed to the Secretary.

Q. Now, we will proceed to another subject. You say that you sell some of your production to independent refiners and that they pay you 41 cents a barrel for 32 oil or better, and a pipeage charge of 5 cents?—A. Yes, sir.

Q. Is that 5 cents per barrel?—A. 5 cents per barrel, yes, sir, for piping and loading.

11867 Q. What sort of a pipe line have you got?—A. Simply a small affair from one of our leases over to the railroad, about five miles.

Q. That is what you get this 5 cents pipeage charge for?—A. Yes, sir.

Q. Now if you turn your oil over to the Prairie, do you have to pipe it over your pipe-line to the station in the same way?—A. No, sir, they bring their pipe-line to the tanks on our property.

Q. They take the oil right there?—A. Yes, sir.

Q. And do they pay you anything for pumping your oil?—A. If we have to pump it, yes, sir—a cent a barrel.

Q. A cent a barrel; that is for pumping into their pipes?—A. Yes, sir.

Q. And do they themselves furnish the pump?—A. Ordinarily, yes, sir.

Q. They furnish the pump and they pay you a cent a barrel for the pumping?—A. Yes. They call it for steam, for the trouble of pumping it into the line where it won't gravity.

Q. There are, I think you said, a number of oil refineries in Oklahoma?—A. Yes, sir, several.

Q. Where are they?—A. There is one located at Chelsea; there is one at Muskogee; I believe there is one at Okmulgee, and one at Sapulpa. You might say there are two at Tulsa. One of them has never been operated, and the other doesn't amount to much, it is a small affair. There is one at Oklahoma City. I believe there is one at Big Heart, in the Osage Nation.

Q. All those refineries are so called independent refineries, are they not?—A. Yes, sir.

11868 Q. And they all refine Oklahoma oil?—A. Yes, sir.

Q. They are all going concerns?—A. Yes, sir; they appear to be. Well, there is one of them that is not going very fast, the one that I referred to at Tulsa.

Q. One of those at Tulsa?—A. Yes, sir.

Q. All the rest are going?—A. Yes, sir.

Q. That is a new one, you say?—A. It is one that was built last fall by the Uncle Sam Oil Company, and they got into some difficulties and it never was operated. It is all ready for operation.

Q. Has the Uncle Sam Oil Company already one in operation in Oklahoma?—A. Not in Oklahoma. They have one in operation in Cherryvale.

Q. In Kansas?—A. Yes; and I believe another one at Atchison, but that is not in operation at present.

Q. Now, for the benefit of the producers of oil and for the trade, what would you say as to the advantage of having a fixed, known price for crude oil in the Oklahoma fields, over a varying up-and-down price?—A. The advantage is very great, indeed. The producer has something to figure from. As a matter of fact, the present system of handling oil, from a producer's standpoint, as it is operated by the Prairie Oil and Gas Company, comes about as near being an ideal system as can be devised.

Q. You think that is better than the method adopted by the Gulf and Texas companies?—A. Very decidedly better.

Q. Than finding out how cheap some producer will let them have the oil? It is better for the producer, isn't it?—A. It is, indeed.

11869 Q. Now, you testified that the lines of the Gulf and the Texas companies did not get further into the Oklahoma fields than the Glenn Pool?—A. Yes, sir.

Q. Would it be feasible, without long extensions of their lines, to get into the other fields, the other producing portions of Oklahoma?—A. Yes.

Q. How far would they have to extend the line to get from the Glenn Pool to the Shallow Sand's locality?—A. Oh, I should think probably 60 miles to bring them into the Shallow field.

Q. And to Caney, which is up in southern Kansas, from the Glenn Pool, how far would it be?—A. Probably 75 miles. But then there is quite a pool just north of Tulsa two or three miles. It would not be over 15 miles from them.

Q. That is, between Glenn Pool and the Kansas line there are a number of producing fields?—A. It is substantially all oil territory.

Q. The Kansas field has been a declining field, has it not, Mr. Greenlees?—A. Yes, sir.

Q. The oil that has ever been produced in Kansas has been very small compared with the production of Oklahoma?—A. Yes, sir.

Q. Decidedly small?—A. Yes.

Q. The Kansas production at its greatest has been very small compared with the Oklahoma production, say, in 1907 or at present?—A. It would be but a small percentage of it.

Q. And it has been a declining field of production, has it?—A. As a field; yes, sir.

11870 Q. And as it declines does the gravity fall?—A. In many cases I understand it does.

Recross-examination by Mr. KELLOGG:

Q. What you want is no competition at all in the field—only one purchaser—is it?

Mr. MILLER. I object to that. That has been answered.

A. No, I wouldn't say that.

Q. What?—A. I wouldn't say that; no.

Q. You want more than one purchaser?—A. The more the better. But I say this, that you can not do the producers of that field a greater wrong in any way that I can imagine than by preventing the Prairie Oil & Gas Company from laying additional lines as they are needed and giving us access to the main facilities that have been established in this country, and you might say in the world, for the movement and marketing of oil.

Q. Do you think the regulations of the Department have prevented it?—A. I do.

Q. You don't know anything about it yourself?—A. Yes.

11871 Q. Well, are we to understand that the rest of your testimony is what somebody told you, or what you know yourself?—A. I think I know myself what I have testified to all through.

Q. Now let us see. Regulation No. 16: "Where additional right of way is required for the location of pumping stations or sites for receiving and distributing tanks, application therefor should be made in manner as herein provided for pipe lines, accompanied by a map showing the location of the right of way desired, with connecting line to the main pipe line. Applications for such additional right of way may be submitted separately or may be incorporated in the application for the main line." Is there anything in there that says it will be held up for six months?—A. Read the preceding part of the regulation, and that throws light on that section.

Q. Which one?—A. Where it refers to maps of locations.

Q. Maps of locations?—A. In the first place, they would not do anything, according to the regulation, under twenty days.

Q. What is that?—A. They would not begin to think about it for twenty days, according to the regulations.

Q. What pipe line has been held up by those regulations?—A. Well, the one that has just been completed in the Shallow field was held up indefinitely.

Q. That was an application to build it without any regulations at all, wasn't it?—A. It was held up by the regulations, in the first place.

Q. Yes, but that was an application to construct a line into the Shallow field, exempting them from all these regulations,
11872 wasn't it?—A. I guess it was; yes, sir.

Q. It was not an application to build——A. But they would not build it under these regulations.

Q. That is it, exactly.—A. It was held up by the regulations.

Q. The Prairie Oil & Gas would not submit to those regulations and it was not held up to approve their plans under those regulations, was it?—A. I could not say as to that.

Q. Do you know of a single case where anybody has made application to have their plans for right of way approved, where it has been held up six months or any months at all?—A. For the simple reason that no sane man will ask for a right to build a line under those regulations.

Q. Do you know of one case where they have and it has been held up?—A. No.

Q. Then, why do you say that it would be held up or has been held up for six months?—A. I say the regulations themselves provide that there is a tedious delay there. I did not say that they would be.

Q. Where do they provide a tedious delay?—A. Read it and see.

Q. I have just read it to you.—A. Let me have it and I will do a little reading.

Q. Read where it requires six months.—A. I didn't say the regulation said it required six months. I said it might take six months.

Q. It might not, too; isn't that true?—A. The chances would be very decidedly against it.

11873 Q. You don't know of a case where it has been held up at all, do you, Mr. Greenlees?—A. I think I have answered that.

Q. Do you know of a case, except the one where they wanted to build without any regulations at all, where it has been held up at all?—A. Yes.

Q. Where?—A. I know that when these regulations were promulgated the Prairie Oil & Gas Company had a line partly completed from Ramona to the Glenn Pool, in order to take care of that production; and because of the obnoxious character of those regulations they not only stopped building it, but they took up what they had laid.

Q. That was because they did not want to comply with any regulations, wasn't it?—A. And I don't blame them for refusing to build

under these regulations. "Except for good and sufficient reason to the contrary"——

Q. Just point out the regulations. It is not necessary to read them into the record again.—A. Well, I will just read a line here, Mr. Kellogg. After pointing out the routine that they must go through in making application, then on page 4 in section 8: "Except for good and sufficient reason to the contrary no action will be taken on such maps until the expiration of twenty days from the date of such service." That is, after their application and maps of their right of way have been filed, they would let the thing lie there for twenty days before they would begin to do anything about it.

Q. If there were good and sufficient reasons, then, they could be authorized at once, couldn't they, under those regulations?—A.
11874 My experience has been, no. No matter what good and sufficient reasons you may have, you bump right up against a snag.

Q. Tell me one case where application has been made to construct a pipe line under those regulations and your experience has shown that they would not do it within twenty days?—A. I could not say as to that, but——

Q. You don't know?—A. ——but in my own experience I have taken up matters with the Secretary and shown good and sufficient reasons why things should be done, and it never was done.

Q. Because the Secretary probably thought the reasons were not sufficient. That is all.

By Mr. MILLER:

Q. What was the difference in the results to the oil producers between the cessation and taking up of that partially completed pipe that you referred to, between Ramona, is it——A. Yes, sir.

Q. ——and the Glenn Pool? What difference did it make to the producers as to whether that line was built or was so taken up and prevented?—A. It meant that there was an outlet for just that much less oil—the capacity of that line——

Q. Well, what would you say?—A. ——and that the producers who wished to sell oil were cut off from just that much market.

Q. And did they lose the oil, or a large part of it?—A. In many cases there was a great deal of oil lost.

Q. Can you estimate about what the difference to the producers there was?—A. It is a very hard thing to estimate, but it would run into an immense sum.

Q. What do you mean by an immense sum—hundreds of
11875 thousands of dollars?—A. Yes, sir; I would say that the producers have lost at the very least a couple of million dollars in the Glenn Pool by the lack of those lines.

By Mr. KELLOGG:

Q. That is, you mean they have not been able to market their oil?—A. Not only that, but they have actually lost oil. Mr. Kellogg, we lost enough—I say we; I mean myself, those interested with me—lost enough in the last twelve months in the Glenn Pool, for lack of

these pipe line facilities that they have been trying to keep us from getting, to have made all the difference between a profit and a loss. I presume that our own loss was not less than $100,000 to $150,000 in the last twelve months, there in the Glenn Pool.

Q. The Gulf Pipe Line and the Texas Pipe Line were built under these regulations, were they?—A. Yes, sir.

Q. Did the Pure Oil Company object to the regulations when you talked to them?—A. It was before these regulations went into effect.

Q. Did the Shell people object to the regulations?—A. They did not want to get in there at all.

Q. They have got an understanding or agreement with the Standard Oil Company, haven't they?—A. No, I think not.

Q. When did you talk with the Shell people in London?—A. I did not talk with them at all. It was through correspondence.

Q. When was the correspondence?—A. About 1906, I think, as I recall it, soon after Glenn Pool opened up, about the latter part of 1906 I should say.

11876 W. H. JOHNSON, called on behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Mr. MILLER:

Q. Where do you reside, Mr. Johnson?—A. In Bartlesville, Oklahoma.

Q. What is your business?—A. The production of oil—crude oil.

Q. How long have you been engaged in the production of crude oil in Bartlesville or in Oklahoma, in that field down there? That is where your field of production is, is it?—A. Yes, sir.

Q. Is it the Bartlesville region, or Glenn Pool, or where, that you are producing?—A. Well, scattered over a distance of a hundred miles. We have production at different points.

Q. At the different points in Oklahoma?—A. Yes, sir.

Q. And how long have you been engaged in oil producing in Oklahoma?—A. Since 1904.

Q. And where did you first produce oil there?—A. On lot 66, Osage domain. That is about 26 miles southwest of Bartlesville.

Q. And do you produce in the Glenn Pool?—A. I do not.

Q. Are all your wells, in which you are interested, in this neighborhood of Bartlesville and southwest of Bartlesville? Do you do anything in what is called the Shallow Sands?—A. We have some Shallow Sand wells, yes, sir.

Q. Your wells or oil lands are in the Osage country, large-
11877 ly?—A. We have about 1,400 acres in the Osage territory.

Q. How much crude oil have the oil producers with whom you have been connected produced and sold in Oklahoma?—A. I should say between a million and a half and two millions of barrels.

Q. How is that?—A. I should say our company has produced between a million and a half and two millions of barrels.

Q. You have got a number of properties running along between Tulsa and Bartlesville, along near the Osage line there, have you not, Mr. Johnson?—A. We have.

Q. Are you a member of the Mid-continent Oil Producers' Association?—A. I am.

Q. And are you an officer?—A. I have been vice-president since its organization.

Q. And you are its vice-president now?—A. Yes, sir.

Q. With what oil-producing companies are you connected?—A. The Sagamore Oil and Gas Company and the Sachem Oil Company.

Q. You commenced your operations in Oklahoma in the Bartlesville district, did you not?—A. Yes, sir, in the Osage domain, southwest of Bartlesville.

Q. Were there pipe lines in there when you commenced the production of oil?—A. The first pipe line was extended from Caney about the time I went to Bartlesville.

Q. What was the production there at the time the pipe line first reached that section, do you know? How much was being produced up to the time you opened up?—A. Approximately about 1,200 barrels a day.

11878 Q. What followed the opening of the pipe line down there?—A. The opening up of additional territory by development.

Q. The Glenn Pool production was opened a little later, was it?—A. Considerably later, yes.

Q. Before the Glenn Pool opened, how much had been the production of the Osage and the Cherokee field, and the field in the Osage nation?—A. About 85,000 barrels.

Q. The Glenn Pool lies just south of Bartlesville, doesn't it?—A. 45 miles south of Bartlesville.

Q. And how much does that cover?—A. The Glenn Pool proper covers about 8,500 acres. There has been opened up north of the Glenn Pool approximately 1,500 acres more, making perhaps 10,000 acres.

Q. The oil production in Oklahoma extends over an area of how many acres?—A. About 3,000,000 acres; 45 or 46 miles wide by practically 90 miles long.

Q. How has the production changed from 1904 to this time, in barrels?—A. In 1904 the Oklahoma field produced about two million and a half barrels.

Q. In 1905 how was it?—A. About seven and a half millions.

Q. In 1906?—A. About seventeen and a half millions.

Q. And in 1907?—A. About 43,000,000.

Q. Then, within four years it grew from two millions and a half to 43,000,000 or more, did it?—A. Yes, sir.

Q. Have the pipe lines that have been constructed into Oklahoma been able to take care of all the oil produced?—A. At no time have they been sufficient.

Q. They are not of sufficient capacity, and have not been
11879 at any time?—A. They have not been.

Q. The growth of the pipe lines has not kept pace with the growth of production?—A. No, sir.

Q. The growth of production has always been ahead. Well now, what has been the growth of the pipe lines down there?—A. During a period of twelve months, covering practically 1906, the increase of the pipe line facilities was about two and one-half times. They continued to increase up to the time of suspension of building trunk lines by reason of the regulations of the Department of the Interior.

Q. Have there been any pipe lines built since those regulations were established?—A. Yes, sir; the Gulf and Texas lines, and a line extending from Caney down into the territory, and lateral lines by the Prairie Oil & Gas Company people, but no trunk lines until recently; a line was constructed from Caney to the Shallow field, a 4-inch line from the vicinity of Ochelata to what is termed the Hogshooter district.

Q. The Coffeyville line belongs to the National Company, does it?—A. Yes, sir, so reputed.

Q. Of Cleveland, Ohio?—A. Yes, sir.

Q. This Ochelata and Hogshooter line is a gathering line, isn't it?—A. No, sir, that was a line for the purpose of transporting the oil of the Hogshooter district to the main line, which was laid under the general permit that covered the line to the Shallow field, as I understand it.

Q. It was not a trunk line. It is what you term a lateral?—
11880 A. No, sir; not a trunk line. Before that time the Hogshooter district was entirely cut off from the balance of the field, excepting one 2-inch line. They had started to build a line there long since, at the time they were constructing the line to the Glenn Pool, but stopped on account of the regulations.

Q. What proportion of the production have the pipe lines been able to take?—A. Approximately from 60 to 80 per cent, varying from time to time as the production varied.

Q. You know the prices the Prairie pays for different grades of oil?—A. I do.

Q. You heard the testimony, I think, did you not, of Mr. Greenlees, about that?—A. I did.

Q. Without repeating it, was that as you recollect it?—A. Absolutely correct, as far as my knowledge extends, excepting that he has not had the experience that our companies have had in producing heavy oil, or much heavy oil. We have produced quite a lot of heavy oil.

Q. What has been your experience in disposing of your heavy oils?—A. At the present time we get 28 cents for it.

Q. You mean by the heavy oil the low-gravity oil, 28 degrees?—A. 28 degrees or under.

Q. As you go down in the number of degrees oil becomes what you call heavier. Is that right? The 28 per cent is heavier than the 32?—A. Yes, sir.

Q. Have you ever sold any oil to the Texas or Gulf pipe-line companies?—A. We have not.

11881 Q. What has been done with oil that the pipe lines are unable to take?—A. Largely the wells have been closed down or shut in, but more largely the producers have built iron tankage. A great deal of wooden tankage has been built to hold oil and a great deal of oil has been run into open storage ponds.

Q. What do you mean by an open storage pond—out in a depressed place?—A. Yes.

Q. Run it down into a hollow, or something like that?—A. Yes, sir.

Q. And leave it there?—A. Yes, sir.

Q. Exposed to the air?—A. Yes, sir.

Q. Has that been done to any considerable extent?—A. To a very considerable extent.

Q. What is the effect upon the oil of leaving it in that way?—A. It becomes fuel oil in a short time.

Q. That is, the gravity goes down; that is, if it is 32 degrees gravity it is pretty soon 28 or lower, is it?—A. Yes, sir.

Q. And that will occur very rapidly, will it?—A. Why, even in a wooden tank oil will drop about a degree a week for some little period, and of course if exposed it must drop very much more rapidly than that.

Q. I show you a card. I think I got that from you, did I not? What does that represent?—A. That represents a pond or lake of oil in the Osage Nation domain, on lot 66, that was produced by our company.

Q. And is that oil in such a pool or hollow exposed to the air—is that a picture of oil in such a pool?—A. Yes, sir.

11882 Mr. MILLER. I think I will offer that in evidence.

Q. Does that correctly represent a portion of that pool?—A. It did.

Q. As it purports to do?

Mr. KELLOGG. Mr. Miller, there is no dispute about the fact. There is no dispute about it. I suppose anybody knows what a pool of oil looks like.

Mr. MILLER. With that statement of Mr. Kellogg, that there is no dispute about this matter of oils being so run out into pools, I will not put the picture in.

Q. You may state, Mr. Johnson, how extensive these pools become sometimes, I mean in acreage or size, these open pools of oil.—A. I think two weeks ago last Sunday a pool burned at Muskogee, alongside of a well that we have, that was reputed to have 50,000 barrels in it, that one pool.

Q. That was one of those open pools, was it?—A. Yes, sir. It burned by lightning. Many times those pools have been wasted by reason of water running in and the oil, of course, rising and running over the dams in case of severe storms.

Q. And the oil, running off with the water over the dam you say, carried away?—A. Yes sir, the water would take the place of the oil, and the oil run over the dam.

Q. I suppose the depreciation and deterioration of the oil when exposed to the air in that way will be greater than when it is stored in a steel or iron storage tank, will it not—the evaporation?—A. I had a personal experience with four comparatively small
11883 ponds. I estimated one month the amount of oil that we had, allowing, as I thought, very liberally, measuring the oil as it went in to the tankage, and the next month when we could get tankage for it, we had lost 4,000 barrels beyond my estimate, and we did not have over 10,000 barrels in the pond.

Q. Well, that oil thus deteriorated is sold, is it, to the Prairie Company?—A. Yes, sir.

Q. And do the producers of oil store their oil temporarily in other ways?—A. In wooden tanks and in iron tankage, steel tankage.

Q. Those are comparatively small, that the producers have, compared with your earthen storage, or your storage on the surface of the earth?—A. Well, they build many large-sized tanks.

Q. This storage by the producers is a sort of emergency storage, until they can get rid of the oil?—A. I think in all cases, as far as I know.

Q. What has been your experience, Mr. Johnson, with the Prairie Oil & Gas Company, and what do you say as to whether they have treated you fairly and justly in their dealings?—A. I feel that they have treated us fairly and justly.

Q. That is, both with your companies and with other producers, so far as you have known?—A. That is my observation and understanding.

Q. Have the Prairie company purchased quantities of oil in excess of the capacity of their pipes to carry off?—A. I think they have in storage about 39,000,000 barrels that they have purchased and
11884 tanked, or else purchased already tanked, that were tanked by the producers.

Q. And when purchased already tanked, do they purchase the tanks?—A. They do.

Q. How many storage tanks of the Prairie Company are there down there, do you know, approximately?—A. Approximately 1,100.

Q. And these range in capacity from what?—A. 35,000 to 55,000 barrels.

Q. What do you say as to the price of oil that the Prairie Company pays to yourself and other producers there, under all the circumstances, as to whether it is a fair and just price?—A. We feel that it is fair, inasmuch as they are unable to take the oil to market without storing it in the field.

Q. Does anybody else pay you more?—A. No, sir.

Q. Do you know the elements of cost that are involved in the purchase and storage of oil?—A. Yes, sir.

Q. Taking those into consideration and assuming that the oil is purchased, that the producer is paid 41 cents a barrel, what would you say the cost of that oil to the pipe line company purchasing it and storing it would be?—A. At what period of time.

Q. Well, take such a period as to your knowledge oil is stored?—A. The oil that was stored early in the field probably stands at a dollar or upwards. The oil stored in '66 would probably stand——

Q. 1906?—A. Yes, in 1906, would probably stand 80 cents at least.

Q. You have seen that oil stored there, haven't you—seen
11885 those tanks grow and increase and multiply?—A. I have probably seen about 800 of them.

Q. What would you say a fair amount of the cost covering the whole of the storage there averaged up to this time?—A. I would have to calculate on how much high-priced oil they purchased at first, to answer that question.

Q. Could you give a percentage of the increase that the cost of the storage has added?

Mr. KELLOGG. You include the value of the oil?

WITNESS. Yes, sir.

Q. Assume that the oil sold at 41 cents, just for the purpose of showing the additional cost?—A. I assume they have purchased so much of the oil in the last year that perhaps 81 or 82 cents would be the reasonable price.

Q. Assuming that they paid 41 cents for all they had in store?—A. Well, no; they paid somewhat higher earlier, but a good deal of it they have not held two years, as I calculate it.

Q. Do you know whether the other pipe line companies for oil they purchase pay more or less than the Prairie?—A. They pay less where they purchase it. The line running to Bartlesville run only their own oil. The line running from Caney, I assume, does the same. I mean the National line running to Bartlesville; and the Gulf and Texas lines pay less.

Q. The refinery at Caney has a little line running down, through which they get their own oil to their refinery?—A. I understand they reach about Copan or near Copan.

Q. And that is the pipe you referred to——A. Yes, sir.

Q. As belonging to the Caney Refining Company?—A. Yes, sir.

11886 Q. Where does the National refinery pipe run to?—A. It runs to Bartlesville, and from there to Coffeyville, Kansas. I omitted saying that there was a pipe line also extending from Cherryvale to perhaps two or three miles below Bartlesville.

Q. Is that the National refinery?—A. No, sir. That is the line known as the Uncle Sam line.

Q. They have a refinery where?—A. At Cherryvale.

Q. And they have an unfinished refinery at?—A. Tulsa and another refinery in Kansas that is not operating, as I understand it, at the present time.

Q. How many members are there of the Producers Association of which you said you were the vice-president?—A. Approximately a thousand.

Q. And most of them are Oklahoma producers?—A. Practically all of them.

Q. Do you know a good many of them?—A. A very large number of them.

Q. You are pretty active in your business, are you, Mr. Johnson, and keep in touch with it?—A. I devote my whole time to it.

Q. And at the meetings of your association and also in your trade and in and about your business you are meeting and conferring with other producers?—A. Yes, sir.

Q. About the interests of the producers down there with respect to their treatment by pipe lines, the introduction of pipe lines into the territory, and all of that, the conditions of your trade and the requirements of your trade, are all of these matters of discussion between you?—A. Yes, sir.

11887 Q. What are the purposes of your association?—A. The purposes of the association have been and are to further the best interests of our business.

Q. You mean the production of oil, and marketing it, getting rid of it?—A. The items of business pertaining not so much to the production as in the matter of getting rid of the oil and in dealing with the Department of the Interior and our State Department. We have internal difficulties as well as external.

Q. Do you know what the sentiment is among the oil producers of Oklahoma with respect to the conduct of its business by the Prairie Oil & Gas Company and the treatment which that company metes out to producers of oil in Oklahoma?—A. I do.

Q. What is that sentiment. How do producers in Oklahoma look upon that, according to the knowledge and information which you have?

Mr. KELLOGG. That is objected to as hearsay and immaterial.

A. I know that they feel that they are having good treatment, considering the inability of the lines to take the oil freely by reason of the lack of facilities and also owing to the vast amount of oil that has been produced between us and the eastern markets since we opened up our field, approximately a hundred thousand barrels a day in Illinois.

Q. The producers of oil out there, according to your experience, are men who are pretty sharp in looking out for their own interests, aren't they—wide awake?—A. We feel that.

Q. That is your observation of your neighbors in the business?—A. Yes, sir.

11888 Q. They are wide awake people, looking out for their own interests and capable of doing it?—A. Quite so.

Q. And they devote their time and attention to that, do they?—A. They do.

Q. Do you and do they charge up to the Prairie Oil & Gas Company the fault, if it be a fault, for the insufficiency of pipe lines, to take care of the production of oil in Oklahoma?

Mr. KELLOGG. Same objection.

A. We do not.

Q. Why not? Why is not the Prairie Oil & Gas Company, which owns large pipe lines running down there—why isn't it at fault for not putting in pipe lines enough to take care of your oil?—A. At the time of the opening of the Glenn Pool they had practically caught up, as statistics will show, with the production of the field.

Q. When was that?—A. Approximately two years since—a little more—and were doing all that they could to prepare to take all of the oil in the field. That pool opened up at about the time—well shortly before the time—it became a formidable field shortly before the time of the promulgation of the pipe line regulations that have been read here this afternoon; and since then it has been impossible for them to undertake to take care of the product.

Q. In view of the very rapid increase in the production of oil, according to the figures you have given here to-day, in order to meet that it would require a very rapid increase in the pipe lines, would it not? It would have required it?—A. That field in less than
11889 eighteen months increased its production from nothing to 122,000 barrels a day. It was, of course, impossible under the restrictions to take the oil.

Q. Is there any reason connected with the terms of the leases of oil lands down there that tends to accelerate the production of oil, to hasten it?—A. Yes, sir.

Q. What are they? What is the provision that you think has that effect?—A. There have been many provisions. Am I to give an idea of them.

Q. Yes.—A. At one time the rule was that the oil producer, when he had a lease approved, should proceed at once and drill a well on that lease, and if he obtained oil, should drill as fast as possible until the entire lease was drilled out. They put the oil producer under bond——

Mr. KELLOGG. One moment. This thing has gone on. I object to stating the terms of the lease. The lease is the best evidence, and I move to strike that all out.

Q. Go right on, Mr. Johnson, now, subject to Mr. Kellogg's objection.—A. At one time they not only put the producer under bond, but required that each producer should put $5,000 in the bank to a separate account, and that he should swear that that $5,000 should be spent on the lease. That had to be done, nothwithstanding the fact that it generally took a year and a half to get a lease approved after it was written. That $5,000 must lie in the bank for a year and a half. The cashier of the bank must swear that that money was there, and that it was there for the sole and only purpose of being expended on that lease and must remain there for that purpose. That was modified from time to time, but after the modification and
11890 after we had taken leases and waited two years on an average to have those leases approved, we were obliged to pay an advance royalty on each acre reaching as high as 75 cents an acre after a short period, and a dollar in addition to that unless we proceeded

to drill within the first year, and then thereafter we are to develop the leases as fast as possible, according to the terms of the lease.

Q. Where you say a dollar you mean a dollar an acre?—A. A dollar an acre. And then if we get a well, any of our neighbors were obliged to offset it if it came near the leases owned by our neighbors.

Q. You mean by that that if your neighbors opened up wells, you were required to open up yours, too?—A. Yes, sir, regardless of pipe line facilities.

Q. And regardless of your inability to dispose of your oil?—A. Yes, sir.

Q. And regardless, too, of whether the market for oil and its products would be overstocked or not?—A. Entirely so.

Q. In other words, the tendency was to accelerate and increase production of this oil in the earth——A. It has always been.

Q. Putting it upon the market regardless of the laws of supply and demand. Is that right?—A. We have felt that the purpose of the Interior Department has been to increase production and decrease our ability to dispose of the oil, which I think the leases and the rules and regulations will substantiate without my testimony.

Q. That has been the effect, has it, of what the producers
11891 regard as the requirements?—A. It has.

Q. And it has accelerated and increased the production?—A. It has.

Q. Without regard to the laws of supply and demand?—A. It has.

Q. What do you know, Mr. Johnson, if anything, about the reason why pipe lines have not gone into Oklahoma to a sufficient extent to take care of production there?—A. We know that they have been prevented very largely by reason of the rules and regulations of the Interior Department.

Q. You mean the regulations governing the question of pipe lines?—A. Yes.

Q. The regulations that were offered in evidence here to-day?—A. Yes.

Q. What is the practice of the Prairie Company in distributing its orders or purchases of oil among the different producers?—A. We are operating nineteen different allotments, and I have found that universally they take the proportionate amount of oil from us in different portions of the field that their pipe line will permit, in proportion to what they are taking from others, by our conversation with others and knowing the general action of the gaugers. We know when a gauger turns on our neighbor's tank and we know when the gaugers turn on our tanks.

Q. And you sort of keep track of that, and your observation is that the Prairie Company prorates or takes a proportionate amount of the production of each?—A. Yes, sir.

Q. They do that fairly?—A. Yes, sir.

11892 Q. And pay their schedule of prices?—A. Always.

Q. What would you say, taking into consideration the interests of the producer producing oil in that territory, as to the effect of having a fixed or reliable price which you can get for your oil, such as results from the prices which the Prairie Company pays, as between that and having an up-and-down price that might result if the producer was left to get what he could, if the purchaser should seek to buy at the lowest price and the seller should seek to get the highest price he could?—A. I believe selling oil at a small margin and knowing that you can sell it every business day in the year for cash at a fixed price is more desirable than any unstable price, even if it was somewhat higher.

Q. Now, if the Prairie, during the time it has been in there, had acted upon the policy of buying oil for the lowest price at which it could get the oil, as a buyer perhaps had a right to do upon the market, and the producers at the same time were trying to get the highest price they could for the oil, what would have been the result?

Mr. KELLOGG. That is objected to as entirely speculative and immaterial.

Q. I think it is more than speculation.—A. It is embarrassing to me to answer that question in the absence of the Prairie Oil and Gas Company officials.

Q. I don't understand that. What do you mean by that, Mr. Johnson? You would rather answer it in their absence? I guess they are all away.—A. We have often been afraid that we
11893 would have to take a lower price when we have had an overproduction.

Q. If that were the situation there, that the sellers were trying to get the highest price they could and the purchasers were trying to give the lowest price they could, would you get 41 cents for oil of 32 degrees grade or better?

Mr. KELLOGG. That is objected to as mere speculation.

A. I think not.

Q. Mr. Kellogg calls that a speculation. What do you think about that?

Mr. KELLOGG. It is a guess.

Q. Is it a guess, or is it——A. It has been proven that in the Glenn Pool it is no speculation, but it is a fact, not a theory.

Q. That is, it has been proven there in the case of other purchasers who did not name the price that the Prairie did, and had the Prairie's competition—the higher price for their purchases—that they were able to get all the oil they cared to take for very much less than the price the Prairie Company was paying?—A. Very much less.

Q. How much less, Mr. Johnson?—A. I am informed that they bought a good deal——

Mr. KELLOGG. Now, that is objected to as hearsay.

Mr. MILLER. It hurts Mr. Kellogg to hear anybody recite any hearsay.

Mr. KELLOGG. My dear man, there has nothing been given here but hearsay, and it does not seem to do any good to object.

Mr. MILLER. Mr. Kellogg would not ask any witness to recite any hearsay.

11894 Mr. KELLOGG. That is about all the evidence you have.

Q. You may state your information?—A. They bought a great deal of pond oil as low as 25 and 28 cents, which was a very low gravity, which was run in with the high-gravity oil by the Gulf line, which is a fact that can be testified to.

Q. You know the difference there, don't you, between the prices that the Gulf and the Texas line pay for oil they buy or have bought, of 32 and better, as compared with the Standard?—A. Yes, sir.

Q. What has been the difference?—A. They have paid from 25 to 35 cents a barrel.

Q. What have they paid usually for oil of 32 degrees and better?—A. 35 cents is the highest.

Q. 35 is the highest, at the same time the Prairie was paying 41?—A. 41.

Q. And have the Texas and Gulf succeeded in getting oil, say, at a price 6 cents a barrel less than the Prairie were paying?—A. All that they wanted and all that they would take.

Q. Presumably if the Prairie had started out they could have gotten oil down there too, couldn't they?—A. We were all surprised that they did not.

Cross-examination by Mr. KELLOGG:

Q. You think you had reason to be surprised, do you?

(No answer.)

Q. Is there any competition between the Texas Company and Gulf Company and the Prairie Oil & Gas Company?—A. I think so.

Q. Is the competition downward or upward?—A. If there

11895 was not competition, it would be assumed that they had mutual interests. If they had mutual interests, the Prairie would not have purchased the hundred tanks that had been erected and filled with oil by the producers, at 41 cents, instead of letting the other people take them over at 35.

Q. If they had mutual interests, it would be for the interests of the Standard Oil—the Prairie—to get its oil as cheap as possible, wouldn't it?—A. They paid 41 cents for all the oil that the producers have put in iron tankage.

Q. That is, the Gulf did?—A. No, sir.

Q. Well, I say, if the companies had mutual interests it would be for the interest of the Standard Oil, or I would say of the Prairie Oil & Gas, to have the Gulf and the Texas companies get their oil as cheap as possible, wouldn't it?—A. I think it would be for the mutual interests of them to take these tanks over.

Q. You don't know that they don't have mutual interests or don't have understandings, do you?

Mr. MILLER. You do. You know they don't.

Mr. KELLOGG. No, I don't know anything of the kind. I think they do.

Mr. MILLER. You have not inquired very much, then, of the people that are very close to you, who know all about it.

Mr. KELLOGG. I have not been able to find out. I think they have mutual interests.

WITNESS. Another reason for thinking they have not mutual interests was their effort to get in there with their line
11896 promptly, and a line which I saw being laid, that was taken up afterward.

Q. You don't know anything about what agreements or understandings there are between the Texas Company and the Gulf Company and the Prairie Oil & Gas, do you?—A. No, sir.

Q. You don't know anything about it, do you, Mr. Johnson?—A. I have just answered; no, sir.

Q. Now, you don't think competition in the buying of oil is a good thing. Is that what we are to understand you mean?—A. What would you expect me to mean as a producer?

Q. I ask you if you think competition in the purchase of oil, where there is more than one purchaser, is a good thing or a bad thing?—A. I think it is a bad thing with the kind of competition we have had in the Glenn Pool.

Q. Have you had any?—A. No, sir; except to see how cheap they could buy.

Q. Then I ask you if you think legitimate competition from a number of buyers is a good thing for the producer or a bad thing?—A. Legitimate competition, yes, sir.

Q. And that you have not had?—A. Legitimate competition would mean a fair field for all pipe lines to come in, not let two in and restrain the others.

Q. You say that the regulations of the Department of the Interior promulgated in December, 1906, have prevented the construction of pipe lines?—A. Yes, sir.

Q. Very well. Now, what pipe lines have been constructed in Oklahoma since that time?—A. The Gulf and Texas lines were being constructed about that time.

11897 Q. Constructed since then, wern't they, all of them?—A. They were promoted at that time.

Q. Yes, but there was no pipe line there; there was not a yard of pipe line built in Oklahoma by the Gulf or the Texas at that time, was there?—A. I think not, excepting to their storage tanks.

Q. Oh, yes; I am talking about trunk pipe line?—A. Yes, sir.

Q. What other pipe lines have been built since that time?—A. The National.

Q. The National Refining Company?—A. Yes, sir.

Q. They built a pipe line from what place?—A. Coffeyville to Bartlesville.

Q. From Coffeyville to Bartlesville—how large a pipe line is it?—A. A 4-inch line.

Q. How far is that?—A. About 26 miles, possibly.

Q. That is to supply their refinery?—A. Yes, sir.

Q. They also ship oil from there to some other place, do they?—A. Not by pipe line.

Q. Not by pipe line; I mean by cars, do they?—A. The finished product.

Q. They only ship the product. Now, what other pipe lines have been constructed since that time?—A. I think the little Caney line that I spoke of.

Q. What company built that?—A. The Caney Refining Company.

Q. Any others?—A. Only various very short lines.

Q. So that all of the pipe lines except the Prairie Oil & Gas Company's pipe line, located in Oklahoma, were built since those regulations, weren't they?—A. Practically.

11898 Q. Then you mean——A. The application for the Caney line was in before, but they refused to let so small a line be built; but after a while they overcame that difficulty.

Q. So that what you mean is that the Prairie Oil & Gas Company has refused to build any additional lines because of those regulations? That is what you mean?—A. Yes, sir.

Q. You don't know of an outside party who contemplated to build a line there, who declined on that account, do you?—A. I know of other lines that were contemplated being built there that were not built.

Q. Who? What lines?—A. An English company contemplated building a line.

Q. What English company?—A. I can't give you the name of it.

Q. Who were the men?—A. The men that they consulted were in Bartlesville, and I know them, but I do not know the principals.

Q. Wasn't it the Shell people?—A. I think not.

Q. Did they refuse on account of the regulations?—A. They refused on account of the fact that it was reported to them that it was unsafe to undertake to build a line there without $40,000,000 of capital, and they only had $24,000,000 in sight.

Q. That hadn't anything to do with the regulations, had it, at all?—A. They had not got as far as that, no, sir.

Q. So they did not refuse on account of the regulations, did they? What is your answer?—A. I do not know.

Q. Name somebody else who contemplated a pipe line before the regulations were passed.

(No response.)

Q. Can you, Mr. Johnson?—A. Yes, sir.

11899 Q. Name them. I have asked you?—A. I don't know the name of the company that proposed to build the line.

Q. Who were the people interested in it?—A. Mr. Connelly—a gentleman by the name of Connelly.

Q. Where does he live?—A. He lives in Tulsa.

Q. Is he a producer?—A. Yes, sir.

Q. Where did he contemplate building a line from?—A. From somewhere on the Gulf to the Glenn Pool.

Q. Is Mr. Connelly a man of wealth?—A. His company, his associates are.

Q. What is his company?—A. The Okla Oil Company.

Q. How large a company is it?—A. Oh, they have about two million and a half barrels of oil in storage, that they had ready to put into their line.

Q. Did they refuse to build it on account of these regulations?—A. Yes, sir; on account of the difficulties and regulations of the country.

Q. Did they have the capital raised to build that pipe line?—A. They had the capital raised so that they went to Illinois and built a pipe line instead of coming there, owing to these difficulties.

Q. How big a pipe line did they build in Illinois?—A. They are building a large pipe line.

Q. How long?—A. Well, they connect to some other line. Illinois is about 300 miles further from the Tidewater than we are.

Q. Where are they building their line from?—A. From the Illinois oil field.

11900 Q. To what place?—A. I cannot tell you.

Q. You don't know how long it is, or how long it is projected to be?—A. It reaches the coast.

Q. What?—A. In connection with some existing lines it reaches the coast.

Q. Well, I know, but how much of a line is this man Connelly building in Illinois or has he built in Illinois?—A. If I should guess at it, I should say 400 miles.

Q. You say he has built 400 miles?—A. Is building 400 miles.

Q. Is it the Pure Oil Company?—A. No, sir.

Q. Has Mr. Connelly built 400 miles of pipe?—A. They are building it, 400 miles.

Q. Has he built that much?—A. They are building it.

Q. I am not asking you if they are building it. Has he built 400 miles of line?—A. I have answered your question. If they are building it, it is not all built.

Q. How much have they built?—A. I do not know.

Q. You don't know whether it is one mile or ten, do you?—A. I say they are building about 400 miles of line.

Q. How do you know they are building 400 miles of line?—A. By the fact that he told me so, and by the fact of common report. It is common knowledge.

Q. Now, is not the Pure Oil Company the only company that is building a pipe line from the Illinois field to the seacoast?—A. No, sir.

Q. The Tidewater Pipe Company?—A. I assume so.

Q. Is this the Tidewater?—A. I assume it connects with the Tidewater.

11901 Q. That is the Tidewater Pipe Company, which is in connection with the Standard Oil Company here, isn't it?—A. I do not know.

Q. The Standard Oil Company owns about 33⅓ per cent of its stock?—A. I do not know.

Mr. MILLER. Does that control it?

Mr. KELLOGG. It does control it.

Q. Now, do you know that the Tidewater Pipe Company refused to build a pipe line in Oklahoma because of these regulations of the Interior Department?—A. I know that he said that they were hampered about with such restrictions that they decided not to build there.

Q. What restrictions did he say?—A. He did not describe them.

Q. So you don't know what they were?—A. Take the Department regulations——

Q. Did he say the Department regulations?—A. And possibly the State antitrust measures.

Q. Oh, the State of Oklahoma?—A. Yes, sir.

Q. So you have some internal troubles you say?—A. We have internal troubles.

Q. What did the antitrust regulations have to do with the Tidewater unless they were connected with the Standard Oil Company?

Mr. MILLER. I object to that.

Q. Will you tell me?

Mr. MILLER. He has not said they had anything to do with the Tidewater.

A. I don't know. I don't know anything about it.

11902 Q. What regulations are there which Mr. Connelly stated prevented the Tidewater from building their pipe line from Oklahoma to the Gulf? I would like to know.—A. If you will allow me to answer in my own way, I would say to you that I have known Mr. Connelly for thirty years. He is a truthful man, and he made that statement to me, and I believe it, and that is all I have to say.

Q. I am asking you what regulations he stated to you? I am assuming him to be a perfectly truthful man.—A. I have answered the question.

Q. What particular regulations did he state?—A. I did not ask him.

Q. You did not ask him. So you don't know anything about what regulations they were?—A. No, sir.

Q. When was this?—A. About five months ago.

Q. Anybody else who contemplated building but did not build on account of these departmental regulations?—A. We have heard many rumors, but nothing positive.

Q. So practically the only company which refused to build additional pipe lines on account of the departmental regulations, put in force December 21, 1906, was the Prairie Oil & Gas Company?—A. Yes, sir.

Q. They have refused to comply with those regulations and construct additional pipe lines?—A. Most properly so, I think.

Mr. MILLER. I object to that.

Q. And yet, in spite of that, the National, the Gulf, and the Texas have built pipe lines since?

Mr. MILLER. I object to Mr. Kellogg's statement in his
11903 question, that the Prairie has refused to obey these regulations.

Mr. KELLOGG. He said conform to them.

Mr. MILLER. There is no regulation that it has refused to conform to that it is subject to. It has declined to submit itself to impossible regulations, that is as far as you can draw, from anything this witness or any other witness has said. There is not anything compulsory about that.

WITNESS. One question was partially asked. Will you read that question?

The report read as follows: "Q. They have refused to comply with those regulations and construct additional pipe lines?—A. Most properly so, I think.

"Q. And yet, in spite of that, the National, the Gulf, and the Texas have all built pipe lines since?"

Q. They have, haven't they?—A. I will say that the problem of the Texas and the Gulf coming into the Glenn Pool, as compared with the problem of piping the 3,000,000 acres of land, is a very insignificant problem, and we as producers believe that the Gulf people, and perhaps the Texas people were conniving with them, were the ones that had those regulations introduced in Washington and adopted so that they could cripple the Prairie people, while they themselves could get the oil without expanding out into the field.

Q. Do you know that they had anything to do with the regulations, Mr. Johnson?—A. I did not say that I knew it.

Q. That is your suspicion?—A. I said that was common report.

11904–5 Q. You say the Prairie Oil & Gas has taken its oil equally from all parties and not discriminated?—A. I do.

Q. That is a good thing for the producers, isn't it?—A. I think so.

Q. That is a fair thing to do, isn't it?—A. It is the only proper thing.

Q. That is one of the regulations of the Department, too, isn't it?—A. Yes, sir; I understand it is.

Q. Well, then, you consider it a bad regulation, do you?—A. I do not consider that regulation bad.

Q. You think that is a good regulation?—A. I do.

Q. Now, what was the object of that regulation? To protect the various leases on the Indian lands, wasn't it?—A. I assume so.

Mr. KELLOGG. Well, I can not finish with this witness to-night—if you want to adjourn.

(An adjournment was then taken until Thursday, November 12, 1908, at 10.30 o'clock a. m.)

11906 ROOM 515, CUSTOM-HOUSE, NEW YORK CITY,
Thursday, November 12, 1908—10.30 a. m.

The hearing was resumed before the special examiner, Hon. Franklin Ferriss, at the above time and place.

Present: On behalf of the petitioner, Mr. Frank B. Kellogg, Mr. Charles B. Morrison. On behalf of the defendants, Mr. John S. Miller, Mr. Chancey W. Martyn, and Mr. W. Cleveland Runyon.

W. H. JOHNSON recalled, and his cross-examination resumed, as follows:

By Mr. KELLOGG:

Q. The regulation which you speak of as to drilling adjoining properties, which requires you to sink wells if wells have been sunk on the other side of the line on the other property, was made for what purpose?—A. For the purpose of protecting the allottee's interests.

Q. Is it a fact that if wells are drilled on one side of the line and operated they will affect the oil production on an adjoining property, unless they are offset with wells there?—A. That is the fact.

Q. Then that was a reasonable regulation to protect the separate allottees, was it?—A. That was.

Q. And while it in some instances produced additional production, you think it is a reasonable regulation, do you?—A. I do.

Q. Are you familiar with the form of leases in other
11907 territories?—A. I am.

Q. Is this Government lease or Indian lease, as you call it, similar to other leases used?—A. Not at all.

Q. Not at all. I did not know. I have never seen one. Do you sell your products entirely to the Prairie Oil & Gas?—A. We do.

Q. When did you commence your business in Oklahoma?—A. In the early part of 1904.

Q. You have always sold to the Prairie Oil & Gas?—A. All the product.

Q. You said you were a member or vice-president of the Mid-continent Oil Producers' Association?—A. Yes, sir.

Q. Who were the men that were active in forming that association?—A. Practically all of the leading producers, or the larger producers, and many of the smaller producers in the field.

Q. Mr. Barnsdall and his associates and his companies were very active, were they not?—A. Not more so than the other members.

Q. In fact, did not Mr. Barnsdall get up the association entirely, he and his associates, and invite in the other producers?—A. Mr. Barnsdall was never at any consultation in reference to the association, or never had anything to do with the promoting of the association.

Q. I am not speaking of Mr. Barnsdall personally. I am speaking of the associates of Mr. Barnsdall in his companies, the men who were interested with Mr. Barnsdall.—A. Not as originators of the association.

11908 Q. You think the associates of Mr. Barnsdall had nothing to do with the origination of this Mid-continent Oil Producers' Association?—A. Not until they were consulted with.

Q. Were they not prominent in its organization?—A. Mr. Glenn was consulted, with many other producers, and became identified with the same general influence that other producers had.

Q. Are you familiar with Mr. Barnsdall's companies?—A. No, sir.

Q. Do you know the Barnsdall Oil Company?—A. I do.

Q. It is a very large owner of leases and production, isn't it?—A. No, sir.

Q. Wasn't it at one time?—A. It is a large or a considerable owner of Osage lands that are subleased from the Illuminating Oil Company.

Q. Did it not at one time acquire something like 390,000 acres of land or leases and drilling contracts all put together?—A. Not to my knowledge.

Q. Do you mean you don't know, or that it did not? I don't understand you.—A. I do not know.

Q. Didn't it acquire from Guffey & Galey 147,000 acres of the Osage rights?—A. They did, thereabout.

Q. And 10,000 acres from the Creek Nation?—A. I do not know that.

Q. Then we will say 147,000 acres of the Osage rights?—A. A very large lease, I can't say how large.

Q. Afterwards didn't it acquire the Oklahoma & Osage Oil Company's rights, making in all about 290,000 acres?—

11909 A. I hadn't any idea that they had such an acreage. I think they purchased the Osage leases, but I have no knowledge of the acreage. I supposed it was a small acreage.

Q. That was the 147,000 acres you say they purchased then?—A. I understood they purchased the——

Q. Guffey & Galey?—A. Guffey & Galey properties.

Q. That was about 147,000 acres, wasn't it?—A. I do not know.

Q. I thought you said a few moments ago you understood that to be the fact?—A. Upon further thought I never heard the figures given until you speak them now.

Q. You never heard the figures given?—A. No, sir.

Mr. MILLER. Do you know anything of it of your own knowledge, or is this hearsay?

WITNESS. I never heard the figures, even hearsay.

Mr. MILLER. You don't know anything about it of your own knowledge?

WITNESS. No, sir.

Mr. MILLER. Well, this would not come under your objection to hearsay, would it?

Mr. KELLOGG. This is the first time he has said he didn't know. I asked him if they acquired the 147,000 acres and he said yes. He said he misunderstood me.

Mr. MILLER. What do you think about it now?

Mr. KELLOGG. I will find out.

Mr. MILLER. Is it hearsay?

WITNESS. My answer was intended to say that they acquired those leases; I was not thinking as to the amount of the leases.

11910 Q. Then you say they did acquire the Guffey & Galey leases?

Mr. MILLER. How much do you know about that of your own knowledge?

WITNESS. I do not know. I understood they did.

Q. You know as much about it as you do about the sentiment of the association, don't you?—A. I understood they did.

Q. You depend upon hearsay for the sentiment of the association, what somebody tells you, don't you?—A. No, sir.

Mr. MILLER. No, he depends upon what he knows, what he gets direct.

Mr. KELLOGG. Yes, but that is what they tell him.

Mr. MILLER. If you want to get the sentiment of another person, that is not hearsay. You do not get the expression of another person's opinion except through what he says.

Q. Do you take the Oil City Derrick?—A. I do.

Q. Did you see the publication in February, 1906, in which the acreage and production of Mr. Barnsdall's big company of $8,000,000 was given?

Mr. MILLER. I object to this on grounds similar to the grounds stated to the previous questions to the previous witnesses on this same subject-matter, as not cross-examination, and as hearsay and immaterial and irrelevant.

A. I do not remember reading that.

Q. Did you know that he had a big company?

Mr. MILLER. You are asked of your knowledge there, Mr. Johnson, what you know.

A. What is the question?

Q. Did you know that he had a big company?—A. I did not.

11911 Q. You don't know anything about Mr. Barnsdall; never heard anything about him, I suppose?—A. Yes, sir.

Mr. MILLER. I object to that question as double. It asks for what he knew and what he heard.

Mr. KELLOGG. Wait a moment. He seems to know less about these matters than he knows about other lessees.

Mr. MILLER. That I don't know.

Q. Then you don't know anything of your own knowledge of the number of lessees in the Osage Nation, do you?—A. Not the number.

Q. When you testified yesterday that there were from one to two thousand producers, you did not know what you were talking about, did you?—A. I knew what I was talking about.

Q. How did you learn?—A. In my connection with the association.

Q. Are Mr. Barnsdall's companies parties to that association—his associates?—A. Some of them.

Q. How do you know?—A. By reason of their having paid their dues and becoming members.

Q. Among these producers in the Indian Territory, who are the large ones?—A. I think Mr. Barnes is one of the largest. Mr. McConnell is a large producer. Mr. Norton is a large producer.

By Mr. MILLER:

Q. You said Mr. Barnsdall or Mr. Barnes?—A. Mr. Barnes.

Q. The gentleman who has been a witness here?—A. Yes, sir.

By Mr. KELLOGG:

Q. How do you know?—A. By general knowledge.

Q. That is the same kind of knowledge I am asking you
11912 about Mr. Barnsdall?—A. Yes, sir.

Q. You know by general knowledge that he is a very large producer—his companies that he controls—don't you?—A. I do not.

Q. You don't know?—A. I think that——

Q. How is it that you have such an entire absence of knowledge of Mr. Barnsdall?—A. He rarely comes to that field, and we know little about it.

Q. You know these companies well, don't you?—A. I know most of our companies.

Q. The Barnsdall Oil Company?—A. You have not asked me in reference to the Barnsdall Oil Company.

Q. The Barnsdall Oil Company, then?—A. I assume that they have about 2,000 barrels a day.

Q. Don't they control lands producing vastly more than that?—A. No, sir.

Q. They do not?—A. No, sir; not to my knowledge.

Q. How do you know?—A. Not to my knowledge.

Q. How do you know they don't?—A. It is not a matter of general repute.

Q. It is not? Well, then, when it was published in the Oil City Derrick that Mr. Barnsdall had acquired the Guffey & Galey lease of the Osage Nation, of 147,000 acres, you never heard of that?

Mr. MILLER. I object to that——

A. I heard of it; that is, excepting the acreage.

Q. Do you remember what they paid for the Guffey & Galey lease?—A. I do not.

11913 Q. Did you ever hear?—A. I think I did.

Q. Well, how much?—A. I do not remember.

Q. A million and a quarter of dollars?—A. I think not.

Q. What was the amount?—A. I do not know.

Q. You have no recollection whatever? Do you mean to say that the Guffey & Galey lease of the Osage Nation lands would only produce 2,000 barrels a day, or has produced only 2,000 barrels a day?—A. I mean to say that those leases are practically worthless.

Q. They are worthless? Now, what about the other leases they acquired on the Osage range? Were they worthless?—A. No, sir. Some pretty good leases.

Q. Valuable, weren't they?—A. Valuable.

Q. Have all of Barnsdall's companies produced only about 2,000 barrels a day?—A. I do not know about his companies outside of the Barnsdall Oil Company. At one time two years ago they had drilled 55 dry holes in the Osage Nation in trying to develop territory, but they were not very successful.

Q. Who is Mr. W. J. Young?—A. He is connected with the Barnsdall Oil Company, I think.

Q. Yes. Formerly president of the Prairie Oil & Gas Company, wasn't he?—A. I think so.

Q. Do you know he was?—A. I have so understood it.

Q. Had you ever done business with him when he was president of the Prairie Oil & Gas Company?—A. No, sir.

Q. Did you ever do any business with him at all?—A. When?

Q. Did you ever do any business with Mr. Young?—
11914 A. In the old Bradford field, yes, sir.

Q. In the old Bradford field in Pennsylvania?—A. Yes, sir.

Q. You were a producer in Bradford. What was Mr. Young's position there?—A. Why, he was——

Mr. MILLER. Who is that?

Q. W. J. Young, formerly president of the Prairie Oil & Gas Company.—A. Why, he had various positions.

Q. With what companies?—A. With various companies.

Q. Name some of them.

Mr. MILLER. I object to this as not cross-examination.

Mr. KELLOGG. Well, the remarkable absence of knowledge of anybody connected with the Prairie Oil & Gas Company, it seems to me, is a proper subject of cross-examination.

Mr. MILLER. I submit that the counsel's remark is entirely improper and uncalled for.

Mr. KELLOGG. I don't think so.

Mr. MILLER. I object to this as not cross-examination, and as immaterial and irrelevant.

Q. Was not Mr. Young for some time president of the Prairie Oil & Gas Company?—A. I have so understood it.

Q. Did you ever see him while he was connected with the Prairie Oil & Gas Company?—A. I do not remember seeing him during that time.

Q. You knew him in Pennsylvania?—A. I did.

Q. When did he quit the Prairie Oil & Gas Company?—A. Why, I think two or three years since.

Q. Two or three years. He then became what officer of the Barnsdall Oil Company?—A. I do not know.

11915 Q. How is he connected with the Barnsdall Oil Company?—A. I do not know.

Q. How do you know he is connected with the Barnsdall Oil Company?—A. So reputed to be.

Q. Where does he live?—A. I do not know.

Q. Have you ever seen him since you were in Oklahoma?—A. Yes, sir.

Q. How often?—A. Why, he has been there a few times only. He does not live there.

Q. Where does he live?—A. I do not know.

Q. How well did you know him in Pennsylvania?—A. Quite well.

Q. Quite well. How did you happen to know he was ever connected with the Prairie Oil & Gas Company?

Mr. MILLER. Is there some limit that counsel will put upon finding out what this witness does not know about immaterial matters? This is being done in our time, and I object to it.

Q. Where do you live?—A. In Bartlesville.

Q. Did not Mr. W. J. Young have his headquarters with the Barnsdall Oil Company in Bartlesville?—A. He comes there occasionally.

Q. Didn't he have his headquarters there, his head office there?—A. I can't say as to that.

Q. Has the Barnsdall Oil Company got an office there?—A. They have.

Q. Is not that the head office?—A. I do not know.

Q. Do you know of any other office?—A. I do not know.

11916 Q. How long have you lived there?—A. Since 1904.

Q. How big a place is it?—A. Some people think there are 14,000 and others 8,000; somewhere between the two.

Q. You have never seen Mr. Young there in Bartlesville in the office of the Barnsdall Oil Company?—A. I have.

Q. How often?—A. Why, several times during the past—I don't know. He is rarely there.

Q. He is rarely there. Is he advertised as the manager or president or anything?—A. No, sir; not to my knowledge.

Q. Does the correspondence show that he is connected with them?—A. I do not know that.

Q. Is the Barnsdall Oil Company a prominent company in Bartlesville?—A. Why, about the same as the other companies.

Q. You don't know, then, what his position with that company is?—A. I do not.

Q. You mean by that that you have never seen the record of his election, or you have not heard that it is commonly known what his position is?—A. I have never seen or heard of his election to any position in reference to the Barnsdall Oil Company.

Q. And you have never heard that he held any position with the Barnsdall Oil Company?

Mr. MILLER. Well, isn't that hearsay, Mr. Kellogg? What do you think about it?

Mr. KELLOGG. Well, I want to find out how little this witness knows.

Mr. MILLER. You would not ask him about it if it was hearsay, would you?

WITNESS. I assume he has.

11917 Mr. MILLER. I suggest that counsel might possibly put some of these questions in another and a little different form.

Q. Are you a banker?—A. No, sir.

Q. Connected with any bank?—A. No, sir.

Q. Is Mr. Greenlees a banker?—A. I think not.

Q. Is Mr. Barnes a banker?—A. Mr. Barnes is incidentally a banker—principally a producer.

Q. What do you mean by incidental? A side issue?—A. Why, he is president of the bank, but does not devote his time to the bank.

11918 Mr. MILLER. I offer in evidence from the pamphlet, being the Government publication of the Revised Leasing Regulations of June 11, 1907, governing leasing of lands of members of the Five Civilized Tribes, prescribed by the Secretary of the Interior, paragraph or regulation No. 23, which is on page 9 of the pamphlet referred to.

I also offer in evidence paragraph or regulation No. 27 on page 10 of the same pamphlet.

Also two paragraphs from Form A of the form of lease prescribed by the same regulations, and contained in the prargraphs in question on page 30 of this pamphlet. I am willing that the stenographer should put these paragraphs into the record at this point, if no more of the pamphlet is required to be put in by the Government, or to have the pamphlet made an exhibit, as preferred by counsel for the Government. These paragraphs are marked with a pencil on the pamphlet which I produce and hand to counsel for the Government.

The portions of the pamphlet above referred to are as follows:

"23. An oil and gas lessee shall drill at least one well on each leasehold within twelve months from the date of the approval of bond, or may further delay operations by paying within twenty-five days after the end of the year $1 per acre per annum for each leasehold. Operations may be so delayed upon making the annual payments required for a period not exceeding five years from

11919 May 22, 1906, except where bonds are approved subsequent to that date, in which event the period of delay shall run from the date of the approval of the bond. A failure to drill within one year or to make the payment required within twenty-five days after the end of the year shall subject the lease to forfeiture without further notice to the lessee. The Secretary of the Interior may at any time required and lessee immediately to develop a leased tract or offset wells on adjacent tracts should he determine that the interests of the lessor demand such action."

"27. Lessees must drill at least one well upon land covered by each lease within twelve months from the date of the approval of bond; failure to so drill subjects the lease to cancellation, except the time for drilling may be extended upon the payment of an annual

rental. (See section 23.) Should the interests of the lessor so demand, the Department reserves the right to require any lessee to develop a leased tract immediately."

(Form A.—Creek—Other than fullbloods.)

* * * * * * *

"And the part of the second part further agree and bind heirs, successors, and assigns to pay, or cause to be paid, to the said agent, for lessor , as advanced annual royalty on this lease, the sums of money as follows, to wit: Fifteen cents per acre per annum, in advance, for the first and second years; thirty cents per acre
11920 per annum, in advance, for the third and fourth years, and seventy-five cents per acre per annum, in advance, for the fifth and each succeeding year thereafter of the term for which this lease is to run; it being understood and agreed that said sums of money so paid shall be a credit on the stipulated royalties; and further, that should the part of the second part neglect or refuse to pay such advanced annual royalty for the period of sixty days after the same becomes due and payable the Secretary of the Interior, after ten days' notice to the parties, may declare this lease null and void, and all royalties paid in advance shall become the money and property of the lessor.

"The part of the second part further covenant and agree to exercise diligence in the sinking of wells for oil and natural gas on the lands covered by this lease, and to drill at least one well thereon within twelve months from the date of the approval of the bond by the Secretary of the Interior, and should the part of the second part fail, neglect, or refuse to drill at least one well within the time stated this lease may, in the discretion of the Secretary, be declared null and void, after ten days' notice to the parties; provided that the lessee shall have the privilege of delaying operation for a period not exceeding five years from the date of the approval of the bond to be furnished in connection herewith, by paying to the United States Indian agent, Union Agency, Indian Territory, for the use and benefit of the lessor , in addition to the required annual advance royalty, the sum of one dollar per acre per annum for
11921 each leased tract remaining undeveloped, but the lessee may be required to immediately develop the tract leased, should the Secretary of the Interior determine that the interests of the lessor demand such action.

Mr. MILLER. I also offer in evidence from another Government pamphlet of the Revised Regulations of April 20, 1908, governing leasing of lands of members of the Five Civilized Tribes prescribed by the Secretary of the Interior, and being, as I understand, a revision by the Secretary of the Interior of the regulations shown upon the other pamphlet, paragraph or regulation 23 on page 10, and 27 on page 11 of this pamphlet, and from Form A of the form of lease contained in this pamphlet, approved April 20, 1908, prescribed by the regulations I offer paragraph 4, being on page 22 of this pamphlet.

The paragraphs so offered in evidence are as follows:

"23. An oil or gas lessee shall drill at least one well on leasehold within twelve months from the date of the approval of the lease by the Secretary of the Interior, or may delay drilling said well for not exceeding five years from the date of such approval by paying to the United States Indian agent, Union Agency, Muskogee, Okla., for the use and benefit of lessor (subject to the limitations and conditions in said lease contained), in addition to said advance royalty, the sum of $1 per acre per annum for each year the completion of such well is delayed, payable on or before the end of each year. The
11922 lessee may be required to drill and operate wells to offset paying wells on adjoining tracts and within 300 feet of the dividing line."

"27. Lessees shall not be allowed to drill within 200 feet of the division lines between lands covered by their leases and adjoining lands, except in cases where wells on adjoining tracts are drilled at a less distance, in which case lessees may offset such wells by drilling at an equal distance from the line; and provided further, that in cases where the dimensions of leased tracts do not permit drilling 200 feet from the lines, wells may be drilled at points halfway between lines which are 400 feet or less apart."

"(Form A.—Approved April 20, 1908.)

* * * * * * *

"4. The lessee shall exercise diligence in sinking wells for oil and natural gas on land covered by this lease, and drill at least one well thereon within twelve months from the date of the approval of this lease by the Secretary of the Interior, and on failure so to do this lease becomes null and void: Provided, however, There is reserved and granted to the lessee the right and privilege of delaying the drilling of said well for not exceeding five years from the date of the approval of the lease by the Secretary of the Interior by paying to the United States Indian agent, Union Agency, Muskogee, Okla., for the use and benefit of the lessor (subject to the limitations and conditions hereinafter contained), in addition to said advance royalty, the sum of one dollar per acre per annum for each year the completion of such well is delayed, payable on or before the end of each year; but lessee may be required to drill and operate wells to offset paying wells on adjoining tracts and within three hundred feet of the dividing line."

11923 FREDERICK S. HOLLANDS, called on behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Mr. MILLER:

Q. Your name is Fred. S. Hollands?—A. Yes, sir.

Q. Where do you reside?—A. Oak Park, Illinois.

Q. What is your business?—A. Chief of tariff bureau of the Clover Leaf office, Toledo, St. Louis & Western and C. & A. Railroad.

Q. How long have you been connected with the Chicago & Alton system?—A. Since July 15, 1902.

Q. And in the tariff and rate department?—A. Yes, sir; in charge of freight tariffs.

Q. What are your duties?—A. The general supervision of the freight tariffs of the Alton and Clover Leaf to-day.

Q. And of the Alton before the Alton acquired the Clover Leaf?—A. Yes, sir, or rather the Clover Leaf acquired the Alton.

Q. Is your office with that of the general freight agent?—A. Yes, sir, part of the general freight office.

Q. And your superior officer is the general freight agent?—A. Yes, sir.

Q. And is it part of your duties to quote freight rates?—A. Yes, sir.

Q. And make and apply tariffs?—A. Yes, sir.

Q. For the transportation of freight traffic?—A. Yes, sir.

Q. Was that your business in 1902, '3, '4, and '5?—A. In
11924 1902 when I first went there I compiled the tariffs personally. In later years we have had additional force to do the detail work.

Q. That is still done under your direction?—A. Yes, sir.

Q. Before you were connected with the Chicago & Alton were you in the railroad service?—A. I was with the Chicago, Milwaukee & St. Paul as tariff clerk for about a year.

Q. And before that?—A. With the Central Freight Association a year and a half or two years.

Q. In Chicago?—A. Yes, sir.

Q. I show you petitioner's Exhibits 552, 553, and 554, and ask you if you are familiar with those tariffs, or so-called special billing orders of which those are copies? You may assume, Mr. Hollands, that those are accurate copies of the tariffs that have the numbers at the top, except that I think in the original tariffs they were not written with a pen, were they?—A. No, they were typewritten. I am familiar with all except the last one here, 1082. That does not come to my mind.

Q. You may omit that one. That is not part of what I intended to ask you. I did not intend to give you that. That happened to be attached to the same bunch in the hands of the Government counsel, but that was not included. The question is confined to petitioner's Exhibits 552, 553, and 554, which are copies of special G. F. D. No. A-209, special G. F. D. No. A-447, special G. F. D. No. A-772, Chicago & Alton Railway Company. Those are the papers that I intended to hand you and ask you about. You are familiar with those tariffs?—A. I am.

Q. I also show you copies of petitioner's Exhibits 549 and
11925 550, these exhibits being copies of Chicago & Alton, C. & A. G. F. D. No. 5703, I. C. C. No. 981, and C. & A. G. F. D. No. 10175, I. C. C. No. 1203, and ask you if you are familiar with those tariffs?—A. I am.

Q. You are also familiar with the tariffs following I. C. C. No. 1203, and being Chicago & Alton I. C. C. No. 1407, which has been offered in evidence, I understand, under an exhibit number that I do not know. You are familiar with that application sheet tariff, are you not?—A. It is similar to this one.

Q. Similar to 1203?—A. Yes.

Q. And so far as the towns named upon 1203 as points taking the Chicago rates (I mean points or stations on 1203 named as taking Chicago rates) the tariff I. C. C. No. 1407 also named these points, did it not?—A. It would name the majority of them. There might have been some corrections or additions.

Q. The additions of course would not strike out these?—A. No, no.

Q. But if it changed at all it would be the addition of points taking the Chicago rates, or the addition of routes?—A. Yes, sir.

Q. And both name Whiting, Hammond, and East Chicago, and some other points in Indiana, by the route of the Chicago Terminal Transfer Railroad, don't they?—A. I did not catch that last.

Mr. MARTYN. By the route of the Chicago Terminal Transfer Railroad.

Q. By the route of the Chicago Terminal Transfer Railroad?—A. As far as Whiting, Indiana, goes, it is via the C. T. T.

11926 Q. Now, Mr. Hollands, these tariff sheets which are called upon their face "Special billing orders," being petitioner's Exhibits 552, 553, and 554, are they tariffs?—A. Most assuredly; yes, sir.

Q. They were issued as tariffs?—A. Yes, sir.

Q. By your railroad, the Chicago & Alton?—A. Yes, sir.

Mr. KELLOGG. Now, one moment. That is objected to. They are the best evidence of what they are, on the face. I move to strike out the answer.

Q. Did your road issue other tariffs of that form?

Mr. KELLOGG. That is objected to as immaterial.

Q. During the same years?—A. On other commodities, you mean?

Q. Yes.—A. Yes, sir.

Mr. KELLOGG. That is objected to as immaterial, the tariffs being the best evidence.

Q. How many other commodity tariffs, naming commodity rates on the commodities named therein, of that sort, did the Alton have during the years 1903, '4, and '5?—A. That is the same form as this, you mean?

Q. Substantially; yes, the same form.

Mr. KELLOGG. Same objection.

A. Possibly between three and four hundred a year.

Q. These three tariffs, petitioner's Exhibits 552, 553, and 554, are the commodity tariffs on which the Alton Company transported the petroleum and its products from Chappell, Illinois, to East St. Louis, Illinois, which were the subject of the indictment and trial

against the Standard Oil Company of Indiana at Chicago,
11927 for the alleged acceptance and receipt of unlawful concessions in violation of the Elkins Act, are they not?

Mr. KELLOGG. That is objected to, the record of that case being the best evidence.

Q. You were a witness on that trial, weren't you?—A. Those are the same issues that were used in that case.

Q. In the case of that transportation by the Alton Company?—A. Yes, sir.

Q. And is Whiting, Indiana, within the Chicago switching limits?—A. What is known as the switching limits; yes, sir.

Q. And other Indiana towns are points of shipment?—A. Yes, sir; Hammond, Indiana, East Chicago, Indiana, and others that have been added since, such as Gary.

Q. And do those points in the Chicago switching limits, although in Indiana, take or are they given by the railroads generally or usually in Chicago the Chicago rate on shipments from Chicago to East St. Louis and to other points?—A. As far as Whiting, Hammond, and East Chicago are concerned, they have taken Chicago rates for a number of years.

Q. So that a shipper at Hammond or a shipper at Whiting in the State of Indiana and close to the city of Chicago, in the Chicago switching limits, would take the same rate as his competing shipper or other shipper at Chicago, or at the other points in and about Chicago in the Chicago switching limits for the same commodity? That is, the railroads would apply the same Chicago rate to each and all of those shippers?—A. All of our tariffs naming rates from Chicago would apply from Whiting, Hammond, or East Chicago,
Indiana, to points on or reached by the Alton road, except
11928 where it was specifically provided for in the tariff that it would not apply from those points.

Q. You mean where it was specifically provided for in what tariff?—A. In the commodity tariff itself. That is, if the rate was named on one commodity, and it said that it would not apply from those points, of course it would make an exception.

Mr. KELLOGG. All this testimony to the application sheets and tariffs is taken subject to the same objection.

Mr. MILLER. Yes.

Q. What was the course of practice of the Alton Railway, say, for a series of years prior to three years ago, prior, say, to October 1, 1905, in applying the Chicago commodity rate to points in Indiana within the Chicago switching limits?

Mr. KELLOGG. Same objection.

A. It applied all rates from Chicago, as I stated before, as published.

Q. Then was that done for every shipper, and with respect to every commodity that was shipped from these respective switching points or common points in the Chicago switching district, or was it confined to any one shipper?

Mr. KELLOGG. That is objected to as immaterial, and that the tariff is the best evidence.

A. I did not quite catch your point there.

Q. Was this done for any shipper?—A. Any particular shipper, you mean?

Q. Yes, or was it done for every shipper?—A. Our tariffs were never restricted to any shipper.

11929 Q. It applied to any shipper and any commodity?—A. As long as our tariff covered the rate; yes, sir.

Q. The practice was to do that generally and apply any commodity tariff that you had from Chicago to East St. Louis, or from Chicago to another point in Illinois, to shipments from each and every point in the Chicago switching limits that took common rates with Chicago?—A. Yes, sir.

Q. What was the practice with respect to doing that, where the commodity tariff was itself not filed with the Interstate Commerce Commission?

Mr. KELLOGG. Same objection. The tariff, the waybills and the shipping orders are the best evidence.

A. We had a number of tariffs issued from Chicago which were not filed with the Interstate Commerce Commission, that we applied under our application sheet, from the suburban territory, including Hammond, East Chicago, and Whiting, Indiana.

Q. Was that confined to these tariffs that I have shown you today, these commodity tariffs, petitioner's Exhibits 552, 553, and 554, the oil tariffs?—A. Confined to those alone?

Q. Yes.—A. No, sir. There were a large number of others.

Q. That were used and applied to shipments from these Indiana common switching points in the same way that you applied these particular tariffs to the shipments of oil? Is that right?—A. Yes, sir.

Q. What was the practice of the Alton freight department having charge of the making, publishing, and filing of tariffs, with respect to filing with the Interstate Commerce Commission tariffs

11930 which named rates between points in Illinois, say, from Chicago to East St. Louis—what was its practice with respect to filing a tariff that named only rates between points in Illinois, like Chicago and East St. Louis?

Mr. KELLOGG. That is objected to as immaterial.

A. Filing with the Interstate Commerce Commission?

Q. Yes.—A. Why, as a general practice, we did not file any of our State tariffs, either Illinois State tariffs or Missouri State tariffs.

Q. You mean by that that any tariff that named a rate from one point in a State to another point in the same State, through that State without traveling out into another State?—A. Yes, sir.

Q. For instance, between St. Louis and Kansas City in the State of Missouri?—A. We considered that as State traffic at one time.

Q. And between Chicago and Bloomington, or other points in Illinois?—A. Yes, sir.

Q. And it was the practice not to file those tariffs with the Interstate Commerce Commission, was it?—A. A general practice, yes.

Q. What was the practice of your road during the time I have asked you about, with respect to using those unfiled State tariffs for transportation of property over your road between the points in Illinois, or between the points in the other State named upon the tariff?

Mr. KELLOGG. That is objected to as incompetent and immaterial. A practice of violating the interstate commerce law can not make it legal.

11931 Mr. MILLER. Of course not. There was no practice of violating the interstate commerce law.

A. Read that question to me again. I did not follow it.

Q. What was the practice with respect to using those tariffs in transportation between points in the same State over your road, supposing the traffic came originally from another State, over some other connecting line, or again was delivered by your road to some connecting line, destined to another State; what was your practice in that case, in applying your State unfiled tariffs to your transportation within the State?

Mr. KELLOGG. Same objection.

A. As I catch your question, you ask in a through shipment from a point outside of the State to a point in the State, or from a point in the State to a point outside of the State?

Q. Yes.—A. Where the combination of a filed rate, plus the rate for the State; that is, the State rate, would make a lower rate, it was used.

Q. Lower than the through rate?—A. Yes, sir, the combination was always recognized where it was lower than a through rate.

Q. Or if there was no through rate?—A. Or if there was no through rate, yes, sir.

Q. Then if a shipment came from some point in Indiana to Chicago, or some eastern point to Chicago, over some of your connecting lines, and the traffic was delivered to you in Chicago and it was destined to Bloomington, and either there was not any through rate from the point of shipment to Bloomington, Illinois, or if

11932 there was a through rate, then in case you had a local rate, Chicago to Bloomington, which taken with the rate to Chicago, would be less than the through rate, you say it was your practice to apply your local State unfiled rate for the transportation over your line from Chicago, Illinois, to Bloomington, Illinois?—A. Yes, sir.

Mr. KELLOGG. All this can be taken subject to the same objection, without repeating it time and time again, to each question.

Mr. MILLER. Yes.

Q. Mr. Kellogg has suggested here that that was not justified if in violation of the interstate commerce law. Did you have any advice with respect to that, or did your department have any advice with

respect to whether you had a legal right to do that under the interstate commerce act—any advice from counsel?

Mr. KELLOGG. I make the same objection.

A. Shortly after the Elkins bill was made effective, I took up the question with our counsel, Mr. Brown, with respect to any changes necessary under that law, and called his attention to some tariffs that we had—State tariffs—asking him whether it was necessary that we file those with the Interstate Commerce Commission; and he answered in substance that we should continue along as we had in the past.

Q. Of course in those cases you apply your State rate to your transportation within the State. Was that done with respect to other States than Illinois by your road?—A. Missouri as well.

Q. Then if you received, say at St. Louis, Missouri, or at
11933 Mexico, Missouri—that is one of your——A. Louisiana is on the river, just over the State line.

Q. If you received at Louisiana, Missouri, freight from a connecting line, which had orignated in another State than Missouri and was destined to some point in Missouri, your practice was to apply your local State unfiled rate for your transportation from Louisiana to its destination in Missouri?—A. Where it made less than any through rate; yes, sir.

Q. You gave the shipper the benefit of that——A. Combination.

Q. And did you regard that as lawful under the interstate commerce act?—A. We did not consider it unlawful.

Mr. KELLOGG. Oh, that is incompetent.

Q. You know that was the general practice of railroads, don't you——A. As far as I had ever had any knowledge.

Q. During 1905 and theretofore?—A. Yes, sir.

Q. Now, in the case of the application by your road of Chicago rates to shipments from other shipping points within the Chicago switching district, such as Hammond or Whiting, how does your road get the freight from the shipping point off your line?—A. That is freight from Hammond or Whiting?

Q. Yes; or other point in the switching district, off your own line?—A. It would be delivered by the connecting line, such as the Chicago Terminal Transfer, the Lake Shore & Michigan Southern, and others.

There are a number of so-called belt lines or switching roads
that do that work of transferring or switching, are there
11934 not, in Chicago?—A. That is considered a switching proposition almost entirely.

Q. And some of the trunk lines do switching off their own line to a connecting line?—A. Yes, sir.

Q. For instance, if freight was to be shipped over your line from a point within the Chicago switching district on the Lake Shore & Michigan Southern line, the Lake Shore & Michigan Southern would bring the car to the connection, and then you would take it?—A. Yes, sir.

Q. And they run to Whiting, too, don't they?—A. The Lake Shore does, I believe.

Q. And connect with you in Chicago?—A. Yes, sir.

Q. And the Chicago Terminal Transfer runs from Whiting and connects with your line at Chappell?—A. It did; and it does at Chicago now.

Q. It does also at Chicago, now?—A. It does not operate over the outer line now.

Q. It delivers freight to you in Chicago now?—A. Yes, sir.

Q. Instead of at Chappel?—A. Yes, sir.

Q. But in 1905 and theretofore it delivered carload freight to you at Chappell?—A. Chappell, Illinois; yes, sir.

Q. The tariff or charge for the switching from the initial point of shipment over to your line, that rate or charge is fixed by the road that does that service; for instance, if the Chicago Terminal Transfer road took a car at Whiting and delivered it to you at Chappell, they carried it for their rate of charge fixed by their tariff?—A. Yes, sir; the regular switching charge.

11935 Q. The switching tariff established and filed by them, and if your road applied to Whiting, or when your road applied to Whiting, the Chicago rates on shipments from Whiting to East St. Louis via the Chicago Terminal Transfer Railroad from Whiting to Chappell where your road received the freight—I say where your road gave the Chicago rate to those shipments, what rate was paid to the switching road bringing the freight to you?—A. Whatever their switching charge might be.

Q. As expressed in their filed tariffs?—A. Yes, sir.

Q. And that came out of your commodity rate from Chicago to the destination?—A. That was absorbed out of the rate from Chicago.

Q. And your net rate was your commodity tariff less the switching charge?—A. Less the switching charge.

11936 Q. Now what do you say, Mr. Hollands, as to whether what was done by your road in applying Chicago rates named in an unfiled tariff for the transportation of oil to East St. Louis, whether what your road did in that case with respect to the application of Chicago rates to shipments from Whiting was the same thing that your road also did with shipments of other commodities during the years I have asked you about, from that or other points in the Chicago switching district in Indiana?—A. As I said before, all tariffs which named rates from Chicago that applied from Whiting and Hammond and East Chicago.

Q. You said you had a large number of other similar commodity tariffs that you so used and applied under your application sheet to Indiana points and to all the points within the Chicago switching district. How were those tariffs, petitioner's Exhibits 552, 553, and 554, issued and kept and used in your office?—A. Those are those special commodity tariffs?

Q. Yes.—A. Why, for part of the time they were filed in what we call our quotation file, which is a file used for quoting rates to the general public or anyone that might ask for rates.

Q. Were these tariffs kept with the other tariffs that you referred to?—A. They were kept in our regular quotation file, yes, sir, along with every other tariff that we have.

Q. Both State and interstate?—A. Yes, sir.

Q. You kept them together.—A. For instance, this tariff naming rate from Chicago to East St. Louis was filed right with our Chicago and St. Louis Tariff No. 24, on practically the same page of the book.

Q. You mean tariff 24 of the Chicago & St. Louis Traffic
11937 Association?—A. Yes, sir; which also named rates between Chicago and East St. Louis.

Q. But was earlier than these tariffs that I have shown you here, made earlier?—A. That is, the original tariff was effective earlier.

Q. Now, you say a part of the time they were that way. During what part of the time?—A. During a good part of 1903.

Q. And theretofore?—A. Yes, sir.

Q. Was there any change then? You say during a large part of 1903.—A. Yes; some time during the latter part of 1903. These special tariffs expired with the current year, and in order to keep them together, so that we could have a proper record of them as they expired, we kept them in separate books, in numerical order. Each year was by itself—that is, a book for each year—a book for 1903, 1904, and so on.

Q. In 1903 you had a book for these commodity tariffs which by their terms expired at the end of the year?—A. Yes, sir.

Q. In 1904 you had another one for that year?—A. Yes, sir.

Q. And so on. And they amounted to a very large number, did they?—A. As I said before, there were between three hundred and four hundred for each year.

Q. You say those were segregated and kept by themselves, those that expired by their terms at the end of the year. Was there any secrecy in so segregating them?—A. No, sir.

Q. How were they kept, then, with reference to other tariffs, after you so separated them and put them into books by themselves?—A. Until we moved to the Railway Exchange, which was in May, 1904, they were kept right in the same case.

11938 Q. The same tariff case?—A. Yes, sir, with the other tariffs.

Q. How was it after you removed to the Railway Exchange Building?—A. I didn't catch that.

Q. You say that was so until you removed your offices to the Railway Exchange Building.—A. Yes, sir.

Q. How was it after that?—A. Part of the time they were kept right alongside of the case, and as we had less space to keep them we moved them around the office to different points. They were always accessible, so we could get at them easily.

Q. Was there ever any change made in the keeping of those tariffs, from the very start until the very end, for the purpose of any secrecy or to deal with those tariffs any differently from what you dealt with the other tariffs—your interstate tariffs, for instance?—A. Not at all.

Q. To how many men, how many clerks, in your office, in your freight department were these State commodity tariffs accessible?—A. You mean during the years 1902, 1903, and 1904?

Q. Yes.—A. Any one of the clerks in the office at that time could have used the books, and there were possibly twelve to fifteen clerks in the office in which they were kept.

Q. And were they accessible to clerks in other offices, and, if so, to how many people?—A. Any of our offices that required any information in that line, such as the accounting office, had access to them.

Q. To how many men were they readily accessible?—A. You are talking of the books themselves?

Q. Yes, the tariffs themselves, these tariffs, petitioner's Exhibits 552, 553, and 554.—A. It is hard to say just how many.

11939 The accounting department might have had two or three men come in the office occasionally to check up something.

Mr. MARTYN. To how many men in all your freight department was that tariff file accessible?

WITNESS. There might have been twenty-five or more. In fact, anybody that wanted to look at them could have looked at them. They were never under lock and key.

Q. They were just like the other commodity tariffs? This tariff was kept precisely like the other commodity tariffs, was it?—A. Yes, sir.

Cross-examination by Mr. KELLOGG:

Q. Referring to these special billing orders naming a 6-cent rate on oil from Chicago, Illinois, to East St. Louis and other places, petitioner's Exhibits 552, 553, and 554, these were not filed with the Interstate Commerce Commission?—A. Those tariffs were not, no, sir.

Q. Where you filed tariffs with the Interstate Commerce Commission, you placed upon them the I. C. C. number?—A. Yes, sir, we did.

Q. All railroads place I. C. C. numbers on their tariffs where they are filed with the Commission, don't they?—A. They are required to do so, in consecutive order.

Q. And when they are not there, that is evidence that the tariff has not been filed, isn't is?—A. When the I. C. C. number is not there?

Q. Yes.—A. Not always. Sometimes we might have sent

11940 a tariff down to the Interstate Commerce Commission and put the I. C. C. number on it, and not have shown it on the tariffs we have distributed.

Q. Do you know that you ever have done that?—A. Yes, I know we have done it.

Q. As a general thing you put it on?—A. As a general thing, yes, where we have printed the number or typewritten it, or whatever it might be.

Q. And, as a general thing, the absence of it would indicate that they were not filed?—A. As a general proposition, yes.

Q. Now, these special billing orders of the Alton Railroad, under which this oil was carried, on their face simply read from Chicago to, say, East St. Louis or other towns in Illinois?—A. To other points shown, yes, sir.

Q. Nothing about Whiting on them at all?—A. Not on those particular sheets, no, sir.

Q. Now, you say that prior to 1903 these were kept in a general file in your office?—A. What we call our quotation file.

Q. Your office is the general office of the Chicago & Alton Railroad?—A. Yes, sir.

Q. The general freight office?—A. That is right.

Q. What do you call your offices where commercial business is usually taken—commercial offices?—A. You mean where the freight is accepted?

Q. Yes.—A. No, that is our local freight office.

Q. Your local freight office. Then you have contracting and commercial agents?—A. Yes, sir.

Q. You have a local freight office in Chicago, have you?—A. Yes, sir.

11941 Q. And one at Chappell?—A. You can not generally call that a local freight office, because we did not accept any freight at Chappell locally.

Q. You had a local freight office there?—A. We had a man that was an agent there. At that time he was joint with the Chicago Terminal Railroad.

Q. He prepared way bills of freight?—A. From connecting lines.

Q. He also had tariffs in his possession, hadn't he?—A. He was furnished certain tariffs, yes.

Q. He had the tariffs usually used to show him the rates from Chappell to various places on your line?—A. He did not get them all by any means.

Q. Well, he got a great many, didn't he?—A. He got a great many, yes; some of the important tariffs.

Q. How could he know what the rate was unless he had the tariff to show it?—A. It was not really necessary for him to know the rate entirely. Most of his business came from beyond Chappell, and the initial line had the rate and billed it at the rate less their switching charge.

Q. But he had to know whether the bill was correct or not, hadn't he, and waybill it himself?—A. The auditor's office takes care of that.

Q. But he had to waybill?—A. Sometimes, yes.

Q. He waybilled all the cars on your line that came to him, didn't he, from connecting lines?—A. What we call rebilling, yes, sir.

Q. He rebilled, then?—A. Yes, sir.

Q. Now, to rebill and waybill, or whatever you call it,
11942 it is a waybill, isn't it?—A. Yes, sir.

Q. He usually had the tariffs to know what rate to waybill it at, hadn't he?—A. If he didn't he called on the general freight office.

Q. Yes, but he usually had them, hadn't he?—A. Well, I can't say usually because there were lots of times he did not have them.

Q. Well, a great many tariffs were furnished him?—A. Yes, sir.

Q. Now, what other freight agents did you have in Chicago, local agents?—A. We had a local freight office in Chicago.

Mr. MILLER. Is that the same one you referred to before?

WITNESS. No; as I understood, he was talking of Chappell.

Mr. KELLOGG. Wait a moment.

Q. You usually furnished your tariffs also to the receiving agent or the delivering agent, whatever you call him, at East St. Louis, at the terminus?—A. Yes, sir.

Q. That is another agent who usually received the tariffs?—A. Yes, sir.

Q. Your local commercial agent, contracting for freight, in the city of Chicago, had the tariffs?—A. Yes, sir.

Q. And your local freight agent at the freight house had the tariffs?—A. Yes, sir.

Q. Now, most freight is contracted or accepted from the merchants and business men shipping, at what offices?—A. I don't quite catch your point there.

Q. A merchant makes an arrangement for a shipment. Who are the officers or agents who usually make that arrangement?
11943 With what office would he make the arrangement?—A. The local freight agent's office. They send the freight right down to the freight house.

Q. But you have a regular commercial office in town?—A. Yes, sir.

Q. And he has the tariff?—A. It is practically a soliciting force.

Q. And they have the tariffs?—A. They have; that is, to a certain extent.

Q. Those local freight agents and soliciting agents are the ones that the customers usually come in contact with, generally speaking, aren't they?—A. Well, not altogether.

Q. I didn't say altogether. I asked you if they usually came in contact with those?—A. They do to a certain extent; yes.

Q. They do to the greater extent, don't they?—A. Well, of course the commercial agent and his force are out soliciting freight.

Q. And the local freight agent and the commercial agent and his force together are the ones who usually come in contact with the public in the shipment of freight, are they not?—A. The greater part; yes, sir.

Q. They do not usually run down to the general office of the railroad?—A. What I was getting at in that way was this: That we have a number of calls from shippers in Chicago regarding freight.

Q. Nobody denies that; but as a general thing, I am talking.—A. I was trying to explain my part of it.

Q. As a general thing the public comes in contact most
11944 with your commercial agents and your local freight agents?—A. Not so speaking of the larger shippers.

Q. That is so. Now, then, I ask you if you keep in your office, or did at that time, during 1903, 1904, and 1905, during the time these three billing orders were in force—and by the way these billing orders, I notice, last for one year each.—A. Yes.

Q. You issued a new one each year?—A. Yes, sir.

Q. That is not usual in your tariffs that you file with the Commission, is it?—A. Not as a general proposition, but there were a number of tariffs that were made to expire at a certain time.

Q. But as a general proposition your tariffs which you file with the Interstate Commerce Commission are not made to read that way?—A. No, sir.

Q. And they are not confined to a particular year?—A. Not as a general proposition; no, sir.

Q. Now, these oil tariffs or oil special billing orders that you have referred to, petitioner's Exhibits 552, 553, and 554, were not sent to any of these local freight agents or commercial agents, or contracting agents, were they?—A. They were sent to the——

Q. I ask you if they were sent to those men.—A. I was going to tell you to whom they were sent, and I will say no one else.

Q. All right.—A. They were sent to the auditor and the officers of the freight department, and not outside of the general freight department.

11945 Q. When you say the officers of the freight department, you mean certain officers in the general office of the company?—A. I mean the vice-president, the general freight agent, the assistant general freight agent, and so on.

Q. They were not furnished to your local freight agents who received freight at the stations, either at Chappell or at the delivering station, or East St. Louis, or Alton, or any other place, or to your commercial agents in Chicago, or your local freight agents in Chicago, were they?—A. Those particular tariffs were not, for the reason that they were not interested in them. The account was handled through the accounting department.

Q. Well, I ask you if they were. Now, you kept distribution sheets of your tariffs, usually, did you not?—A. Always.

Q. And you kept distribution sheets of these tariffs?—A. The same as we did of every tariff.

Q. I show you petitioner's Exhibit 559.

Mr. KELLOGG. There is no objection to using the copy that is in evidence instead of the original?

Mr. MILLER. No.

Mr. KELLOGG. The original is out in Chicago, and I did not want to send for it. By the way, petitioner's Exhibit 559, 560, and 561

are copies of originals. Have you any objection to those because they are copies?

Mr. MILLER. Oh, no.

Mr. KELLOGG. Because I do not want to wait to send out to Chicago to get those.

Mr. MILLER. What do you mean—objection to using the
11946 copies here now with the witness?

Mr. KELLOGG. Yes, instead of the originals.

Mr. MILLER. Oh, no. I presume they are accurate copies.

Mr. KELLOGG. The circumstances under which these copies were put in, were that the copies were taken instead of the originals as we wanted to return the originals to Chicago.

Q. I show you petitioner's Exhibit 559. The numbers opposite the names, on the side, indicate the number of copies of special billing order, petitioner's Exhibit 52, sent to each one of the particular officers therein named; is that correct?—A. This shows that two copies were sent to C. H. Davis, who was auditor of the company; Mr. F. A. Wann, who was then general freight agent——

Q. One copy to him, you mean?—A. Yes; one copy to Mr. Wann; Mr. J. N. Faithorn, who was vice-president——

Mr. MILLER. Vice-president in charge of traffic, wasn't he?

WITNESS. Yes, sir. Mr. Charles A. King, assistant general freight agent, the chief clerk to the general freight agent, the rate clerk who had the quotation rates and the file which was our consecutive numerical file.

Q. Now, all of those men were in your general offices?—A. In the general offices; yes, sir.

Q. None of them was in any of the offices of the contracting freight agents or the local freight agents or the station agents either at Chapell, East St. Louis, or any other place?—A. Not outside the general office; no, sir.

Q. I show you petitioner's Exhibit 560, which is the dis-
11947 tribution sheet for special billing order 553, is it not?—A. Exhibit 553?

Q. Yes, petitioner's Exhibit 553.—A. Yes, sir. That shows that it was distributed the same as the previous one, with the addition of Mr. E. Bogardus, traffic manager of the Standard Oil Company, No. 5 Wabash avenue, who got one copy.

Q. I notice there were four men to whom this was first marked sent, afterwards struck out?—A. Yes, sir.

Q. The first one marked "1 copy," which is erased, is James Mann. Who is he?—A. He was division freight agent.

Q. So a copy was not sent to him?—A. No, sir; not by that.

Q. And the next one marked "1 copy" and erased, was the agent, Chicago. A copy was not sent to him?—A. No, sir.

Q. And the next one, agent at Alton, and "1" agent East St. Louis, erased, a copy was not sent to them?—A. No, sir.

Q. And these are the persons who would ordinarily receive your freight tariffs, are they not?—A. When they applied from and to their stations.

Q. Yes. These tariffs applied from and to their stations, didn't they?—A. But they had certain information on them to the effect that it was not necessary to send them.

Q. Well, they applied to and from their stations?—A. They applied to and from their stations; yes, sir.

Q. Now, what is the information that you assume here made it not necessary to send to these agents?—A. The charges were collected through the accounting office.

Q. Through the accounting office. That is, collection to be made through the auditor's office?—A. Yes, sir.

11948 Q. Now, you could have collected that through the auditor's office just as well if the station agent had these tariffs, couldn't you?—A. Yes, but it was not necessary to furnish him them when the money was not collected through his office.

Q. If these local agents had received these tariffs, they could have billed the freight at 6 cents, and sent them to the general office for collection, couldn't they?—A. I presume they could.

Q. The local agent receiving what is known as a relief?—A. It would not have been necessary to have any relief if he had been furnished with that.

Q. If he had been furnished with that——A. Billed flat at 6 cents a hundred.

Q. Billed at 6 cents a hundred and collected through the freight office just as well?—A. Well, it might have been and might not have been. It depends on what instruction he was given.

Q. Could have been just as well as not if he had been given instructions?—A. Yes; might have prepaid.

Q. Now, petitioner's Exhibit 561 is the distribution sheet for special billing order petitioner's Exhibit 554, isn't it?—A. Yes, sir.

Q. And that shows in the same manner that one copy was sent to each one of the same officers, except the auditor, who got four?—A. Yes, together with two copies to Mr. Bogardus.

Q. Together with two copies to Mr. Bogardus. No, one; isn't it?—A. It is marked over "2."

Q. Oh, yes. Together with two copies to Mr. Bogardus. Mr. Bogardus was traffic manager of the Standard Oil Com-

11949 pany?—A. Yes, sir.

Q. Now, in all of your other business you only had three or four other billing orders or tariffs which provided for collection through the auditor's office? Isn't that true?—A. That is, as far as the tariff went. I believe there were only a few.

Q. Three or four, wasn't it?—A. Just about that number. There were not more than half a dozen anyway, as I recollect it.

Q. Of those others, one of them provided, did it not, to be covered by a voucher, one on walnut logs, number 1151?—A. That is as I recollect it, yes.

Q. And what did that mean, to be covered by voucher?—A. It meant that the shipment would be billed at the regular rate which the agent might hold, and the difference would be refunded through voucher in the shape of a claim.

Q. It was a rebate?—A. Not necessarily.

Q. A refund is a rebate, isn't it?—A. Not always.

Q. Is there any difference?—A. There is a whole lot of difference when you have a tariff to cover one thing and you have not the other.

Q. In this case you say this particular one would be billed at the regular rate——A. That is, the regular class rate or whatever it might be.

Q. And paid for at that rate, and a voucher made for the difference and sent back to the shipper?—A. As usual, the way that reads, yes; as I recollect it.

Q. That is what you mean by that?—A. As I recollect it.

Q. "Covered by voucher," that was one of these other
11950 tariffs that you refer to?—A. That is as I recollect it.

Mr. MILLER. That was not an oil tariff?

WITNESS. No, that was on walnut logs. That was between Illinois State points, as I recollect it, too.

Q. Those are the only ones that you recollect which were provided on the tariff to be settled through the auditor's office?—A. As I recollect it. There were probably half a dozen.

Q. Now, you say that these billing orders which you have named were kept in the general file in your office up to the latter part of 1903 and then put in a special file?—A. As I stated a while ago, they were filed right with all our other tariffs which we used for quoting rates to the public and to anybody, railroads included; and that was discontinued for the reason that there was a large number of issues kept piling up in our books, which expired each year and was a hard thing to keep track of.

Mr. MILLER. When the change was made they were merely put into books by themselves in the same office?

Mr. MARTYN. In the same case?

WITNESS. Yes, sir.

Mr. MILLER. In the same case?

WITNESS. Yes, sir.

Q. Now, you say there are twelve or fifteen clerks in your office. Those twelve or fifteen clerks did not handle these particular tariffs, did they?—A. The twelve or fifteen clerks probably had to handle each one of them before it got through, right down to the office boy.

Q. They were all clerks in your general office, weren't
11951 they?—A. They were all clerks in the general office, yes, sir.

Q. And the public would not apply to those clerks for rates, would it?—A. Quite a number of them.

Q. The public applied to the general freight agent, if they applied to anybody, didn't they?—A. Not necessarily. The public would

come right in the office there and apply to any clerk in the office they might happen to meet first.

Q. And did they usually, if you were there, apply to you or to the freight agent?—A. Part of the time; part of the time to our rate quotation clerk.

Q. You did not have twelve or fifteen rate quotation clerks?—A. We had a number of clerks who handled the tariffs.

Q. Yes, but you did not have twelve or fifteen rate quotation clerks?—A. No, sir.

Q. You had one, hadn't you, or two?—A. One or two, yes.

Q. Why were not these special billing orders given the regular numbers of your commodity tariffs?—A. As I stated before, to keep them separate, because they expired the end of each year. Prior to 1903, though, they were given the same consecutive numbers with our other tariffs, and on account of their expiring our records were getting kind of mixed up, and we separated them for that reason.

Mr. MILLER. That separation was not confined to these two or three tariffs, petitioner's Exhibits 552, 553, and 554?

WITNESS. The issues show for themselves. They were numbered consecutively. There were a lot of numbers in between. It runs from one up to nine hundred and something.

Mr. MILLER. Exhibit 552 is Special G. F. D. No. A-209.

11952 What does that mean?

WITNESS. Yes, sir. That means the 209th issue under that series.

Mr. MILLER. Of other commodities?

WITNESS. Yes, sir; of the same nature.

Mr. MILLER. There were 208 other Special G. F. D. No. A's?

WITNESS. That were published before that one.

Q. You had a great many commodity tariffs local to the State which were printed on regular forms and took the regular G. F. D. number, hadn't you?—A. When you say "printed," do you mean other than typewritten?

Q. Yes.—A. Printed and typewritten and mimeographed and such as those?

Q. Yes, sir.—A. Yes, sir.

Q. They had regular G. F. D. numbers?—A. Yes, sir; but they did not expire with each year as these special commodity tariffs did. Some of them were called special commodity tariffs but did not expire. When these issues became permanent and the business continued to move they were finally made permanent tariffs.

Q. I show you petitioner's Exhibit 557.

Mr. KELLOGG. This, Mr. Miller, is a copy. The original is in Chicago.

A. I see.

Q. Being a commodity tariff issued effective August 15, 1903, naming rates on various commodities, and, among others, on oil, petroleum oil, in carloads, from Belt Junction to East St. Louis, 10 cents per hundred. Are you familiar with that tariff?—A. Yes, sir.

11953 Q. That tariff was sent to the Standard Oil Company, was it not?—A. I believe it was. My best recollection is that it was. The records will show that.

Q. I will show you the distribution sheet. This 10-cent tariff was sent to the Standard Oil Company, was it not?—A. Our records show that Mr. E. Bogardus, No. 5 Wabash avenue, got a copy, and H. E. Felton, 26 Broadway, New York, got one copy.

Q. It was also sent to your local agent at Chicago?—A. One copy; yes, sir.

Q. At Chappell?—A. One copy; yes, sir.

Q. To East St. Louis?—A. Two copies; yes, sir.

Q. To Alton?—A. One copy.

Q. And copies to various other people?—A. To all Illinois agents one copy.

Q. It named a large number of rates on oil, other than the 10-cent rate, to various places in Illinois, did it not?—A. It did.

Q. The Standard Oil Company used that tariff in shipments to many of those places, did it not?—A. I believe they did.

Q. It was in existence how long?—A. This tariff?

Q. By the way, Belt Junction named on the front, that I referred to there, is the same as Chappell, isn't it?—A. It would include Chappell or any other Belt Junction point.

Q. Chappell was the junction between your line, the Alton, and the Chicago Terminal Transfer Railroad?—A. Yes, sir.

Mr. MILLER. I think he said any Belt Junction point.

WITNESS. Yes, it might include the Belt Railway, which

11954 was at Brighton Park.

Q. It did include Chappell?—A. Yes.

Q. I just wanted to understand that. How long was that tariff in force?—A. Why, parts of it are in force to-day.

Mr. MILLER. You mean the oil, don't you?

Mr. KELLOGG. The oil rate, except the 10-cent rate—well, that is in force to-day, isn't it?

WITNESS. Not in this tariff.

Mr. KELLOGG. No; not in that tariff.

WITNESS. In a special tariff on oil.

Mr. MARTYN. The oil rate named in that tariff was canceled, wasn't it?

WITNESS. The 10-cent oil rate in this tariff was canceled; yes.

Mr. MARTYN. Chicago to East St. Louis.

Q. At what time?—A. My recollection is it was some time during 1903.

Q. It was February, 1904, wasn't it?—A. It might have been.

Q. Can you give us the exact date? There is no dispute about it. See if that refreshes your memory. [Handing witness record in Alton case.]—A. I should say that was correct.

Q. What date was the 10-cent rate canceled?—A. As shown there February 3, 1904.

Q. Subject to correction, that is your recollection, isn't it?—A. According to the record; yes.

Q. How far back of 1903 did that 10-cent rate exist?—A. That I could not say positively. It might have been taken up from a previous tariff.

11955 Q. Wasn't it in the tariff G. F. D. No. 56?—A. I believe it was; that is my recollection.

Q. And ran back as far as 1889?—A. I would not say how far it went back, but I think it was taken care of by the amendment to G. F. D. No. 56.

Q. And it had these other rates, generally, the same as this tariff, hadn't it, and was sent to the Standard Oil Company?—A. You mean G. F. D. No. 56?

Q. Yes.—A. I don't know.

Q. Why did you carry that 10-cent rate there when you were shipping for the Standard at a 6-cent rate?—A. We have lots of rates that are duplications, practically, two rates that conflict, and as soon as our attention was called to the fact that we had two rates we canceled the 10-cent rate.

Q. Now, this was a conspicuous rate given to all of your agents?—A. Yes; we have a large number of conspicuous rates.

Q. These other rates you shipped on were not given to your agents?—A. That may be true.

Q. And that was in effect six or seven years, wasn't it, this 10-cent rate?—A. When you say "effect," do you mean that it was actually used?

Q. No, I don't know whether it was used or not. It was used as to some.—A. That is the way we use the term "in effect."

Q. It was used as to some of the rates?—A. Some of the rates that are in here?

Q. Yes.—A. Yes.

Q. And was in the hands of the Standard Oil Company?—A. The tariff?

11956 Q. Yes.—A. As I stated before, it showed we had furnished a copy to the Standard Oil.

Q. Previous to the date of that particular tariff, you had like tariffs naming a 10-cent rate and other rates to other points, and they were also in the hands of the Standard Oil Company, were they not?—A. As I stated before, I do not know.

Q. Did you testify in relation to that tariff, that 10-cent rate, as follows: "Q. You did not intend that this 10-cent rate should apply to their business, did you, or not?—A. Why, I think not. Q. Why not?—A. I could not say as to that. That was probably issued as a 10-cent rate before the 6-cent rate was ever put in, and when the 6-cent rate was put in this was probably overlooked at the time." Did you testify to that?—A. I believe that is the record.

Q. The 6-cent rate was in effect some years before 1903, wasn't it?—A. Not covered by tariff.

Q. It was not?—A. No, not in our office.

Q. Shipments were being made without any tariffs at all, at 6 cents?—A. Well, I don't know as to the shipments. That is my understanding.

Q. You understand, then, that they were shipping prior to this 1903 billing order without any billing order at all, do you?—A. That is as I recollect.

Q. That is as you recollect?—A. Yes, sir.

Q. From Whiting to East St. Louis and St. Louis, the same as they did afterwards?—A. I say I can not say as to just how the transaction was on that. It was handled through the accounting office.

11957 Q. But without any billing order at all?—A. No issue from our office.

Q. No issue from your office. Handled for 6 cents a hundred?—A. That I don't know.

Q. What is your recollection?—A. That is my recollection.

Q. That is your recollection, yes.

Mr. MILLER. Your experience there runs back how far?

WITNESS. 1902.

Mr. MILLER. July, 1902, did you say?

WITNESS. July, 1902, yes.

Q. The billing order that you refer to did not go into existence until January 1, 1903?—A. January 1, 1903, yes, sir.

Q. And prior to that time the Alton road was shipping without any billing order?—A. As I said before that was only the information I got through the employes of the auditing department.

Q. That is your recollection, is it?

Mr. MILLER. I object to that.

A. That is all I know about it.

Q. You were in the freight office there in 1902?—A. We do not see what freight is handled.

Q. Well, you had no billing order for any 6-cent rate?—A. As I said before we had no publication in our office showing a 6-cent rate.

Mr. MILLER. I object to that as hearsay.

Q. And from the information you got in the auditor's office they were shipping at 6 cents a hundred without any rate at all?

Mr. MILLER. I object to that on the same ground.

11958 A. As I stated before, it was simply the statement made.

Q. All right. We will find out about that.

(A recess was here taken until 2 o'clock p. m., at which time the cross-examination was resumed.)

Q. Showing you petitioner's Exhibit 559, which I believe you said was the distribution sheet for the special billing order Exhibit 552, what do the figures "4-4-03" at the head of the distribution sheet mean? That means the date the special order was distributed, doesn't it?—A. That is the date that it shows the record there, yes.

Q. That is the date of distribution?—A. Yes.

Q. Is it not? That is the date of distribution of the billing order?—A. As it shows on the record, yes.

Q. Your custom was to put the date of the distribution on the billing order, wasn't it?—A. Yes, sir.

Q. And it means the same on the other distribution sheets, Exhibits 561 and 560?—A. Yes, sir.

Q. That means that the billing order was issued and distributed as of that date, doesn't it?—A. As of what date?

Q. As of the date 4–4–03.—A. Yes. Now, I wouldn't say for sure.

Q. April 4, 1903?—A. That might have been a reissue, and showing a certain extra supply or something like that. As a general thing we sent them out the first part of the year. As I recollect this original, it was written twice.

Q. Isn't it a fact that it was written the 4th of April and dated back to the first of January?—A. I am not positive as to that.

11959 Q. Now, let me refresh your memory. The Elkins bill was not passed until February, 1903, was it?—A. I am not positive as to the date.

Mr. MILLER. It was February, 1903.

Q. It was after that that you got out this billing order and dated it January 1st, wasn't it, and sent it out April 4th?—A. According to my record it shows that was issued in our office before April.

Q. Where is your record for it?—A. I have the original copy.

Q. The original copy of what?—A. This.

Q. Well, that is the original copy?—A. The original pencil written copy.

Q. That has every word on it that the original has, Mr. Hollands?—A. It certainly has.

Q. That is an exact duplicate of the original?—A. Yes, sir; and down in the corner of the one I had, and made up personally, was the date on which it was issued, which was some time in January or February, as I recollect it.

Q. It was dated back to January 1st, wasn't it?—A. We always start with January 1st; yes, sir.

Q. Have you got that original paper in your office?—A. I have not.

Q. Where is it?—A. I had it in my pocket for a long time in case it was asked for in court, and I don't know what became of it after that.

Q. You lost it?—A. I did.

Q. As a matter of fact, wasn't it issued 4th of April, 1903?—A. This record shows it was sent out of our office that date.

11960 Q. It was issued after the Elkins bill was passed, wasn't it?—A. When you say issued——

Mr. MILLER. What do you mean—the tariff or the distribution sheet?

Mr. KELLOGG. The special billing order.

Q. It was issued after the passage of the Elkins bill and dated back to January 1, 1903?—A. I am not positive as to that. The distribution shows it went out of our office on that date.

Q. Well, it was not effective until that date, April 4, 1903, was it?—A. It was effective January 1, 1903.

Q. It was dated back, wasn't it?—A. It was dated back if it was issued after January 1st; yes.

Q. Well, wasn't it issued after January 1st?—A. You use the term "issued" as distributed. Now we use the term "issued" as the date we make it up and issue it.

Q. Well, didn't you make it up on April 4, 1903?—A. No, sir; I don't believe I did. I made it up before that.

Q. Well, when?—A. As to the exact date I could not say.

Q. When did you look it up to see?—A. As I said, in the Alton case in Chicago I had the paper in my pocket.

Q. You looked it up in the Alton case in Chicago?—A. I had the original pencil copy which I drew up.

Q. It was not introduced in evidence, was it?—A. It was never asked for.

Q. There was no testimony in that case that you issued it on January 1, 1903, was there?—A. Issued?

Q. Yes.—A. Now do you mean issued or——

Q. Well, made up on January 1, 1903.—A. I don't know that there was.

11961 Q. There was no testimony as to when it was made up, was there?—A. I don't recall that there was; there might have been.

Q. Now, you say it was your custom to put in your distribution sheet, after the word "issued," the date when the billing order became effective?—A. No, sir.

Mr. DURAND. The date when it was issued?

Q. The date when it was issued.—A. The date it was issued from the office, not the date it was effective.

Q. What does "issued" mean?—A. The date it was distributed from the office.

Q. It became effective when it was issued, didn't it?—A. No, sir, not necessarily. It became effective on the date it was distributed.

Mr. MILLER. This was a State tariff that became effective when the company made it effective?

WITNESS. Yes, sir. As far as that goes, we could issue a tariff and date it back, as far as State business went, two years, or as far as we wanted to.

Q. That is what you did do in this case, isn't it, date it back to January 1st?—A. When we got it out it was dated effective January 1st. I don't know what the point is you want to get at.

Q. You say you carried it around in your pocket for a long time. You must have some recollection when you made it up, haven't you?—A. As I stated before, it was sometime in January or February.

Q. January or February. It was after January 1st?—A. After January 1st.

11962 Q. Yes.—A. I am not positive about that.

Q. If it was in February it must have been after January 1st?—A. I say I am not positive as to the exact date. It may have been in January that we first had it up.

Q. Well, you didn't issue it in December or make it up in December?—A. It was not distributed from the office until the date shown on there.

Q. Then, you gave it to no one before this date? You did not give it to any one before this date, 4th of April, 1903?—A. That I am not sure of.

Q. You have no recollection of ever giving it to anybody before that date?—A. As I said before, the copy was made up more than once, and there might have been a copy given out before that time.

Q. If you carried around in your pocket the original sheet——

Mr. MARTYN. Who says he carried it around in his pocket?

Q. Mr. KELLOGG. He does.

Q. For a long time, the original sheet you made up, or the pencil writing from which it was made up, you must have some recollection of when that was.—A. I had a pencil memorandum showing the date it was O. K.'ed.

Q. What date was that?—A. I say I don't recollect.

Q. O. K.'ed by whom?—A. As I recollect, it was Mr. Wann's O. K. on it.

Q. What was that date?—A. I am not sure.

Q. It could not be effective until he O. K.'ed it?—A. It could have been effective the day it was shown on the issue as effective.

11963 Q. It is shown on the issue here as effective the 4th of April, 1903. Issued, it says, 4th of April, 1903.—A. That is the date it was distributed from the office.

Q. What did Mr. Wann O. K. it for?—A. Because it was his instructions.

Q. His instructions? It became effective, then, when he O. K.'ed it? Is that right?

Mr. MILLER. He didn't say that.

A. No, I did not.

Q. What did he O. K. it for?—A. Because it was in line with his instructions to get it out. I might say further right there that there are lots of those things that are not sent out until a long time afterwards, because we had a big bunch of them.

Q. What did you get his O. K. for?

Mr MILLER. He has just answered that.

Q. Now I want that clearly in the record.

Mr. MILLER. You have got it twice.

Q. Now answer it.—A. Approving the form in which it was gotten up.

Q. Why did he have to O. K. it?—A. Because it was his instructions to get it out. As I have said before, it was effective the date it was shown on the issue.

Q. Then, getting his O. K. on it was a mere idle ceremony, was it?—A. Not at all.

Q. What did you get it for, then?

Mr. MARTYN. The fourth time.

A. I can't see——

Q. You don't see the point?—A. No, sir.

11964 Q. If the tariff was issued before he O. K.'ed it and became effective before he O. K.'ed it, what did he O. K. it for? Will you tell me that?—A. As I said before, he might O. K. a dozen tariffs after they were issued.

Q. Not what he might have done, but what did he do?—A. Why, he has done it a number of times.

Q. Now, wait a moment. You stick to this tariff. You say you took the original tariff when the Alton case came up in Chicago and carried it around in your pocket for a long time; is that right?—A. I had it in my pocket.

Q. How long?—A. I don't know how long it was.

Q. What did you carry it around in your pocket for?—A. Because there were questions asked in regard to that issue.

Q. In court?—A. Not to the one I had.

Q. Did you tell anybody you had it in your pocket?—A. Did I tell anybody?

Q. Yes.—A. Why, I don't recollect whether I told Mr. Sims or Mr. Wilkerson or not. I think I showed Mr. Wilkerson the original copy.

Q. You think you did?—A. Yes, sir.

Q. Did you show it to Mr. Miller?—A. I don't know that I did.

Q. You don't know that you did?—A. No.

Q. To Mr. Rosenthal or to Mr. Martyn?—A. I am not positive as to that.

Q. How long did you carry it in your pocket?—A. I have already stated for some little time.

Q. How many months?—A. Not any months.

11965 Q. One month?—A. I don't know the exact time.

Q. What did you do with it? What became of it?—A. I don't know what I did with it finally. I took it out of my pocket.

Q. Did you give it to defendants' counsel?—A. Not that I recollect.

Q. You have no recollection of giving it to them?—A. No, I don't have any recollection of giving it to anyone. It was after the case was over. I didn't think it was necessary to use it at all.

Q. Now that, you say, had a pencil O. K. by Mr. Wann; did it?—A. Yes, sir.

Q. What date was that O. K.?—A. As I have told you before, I don't know what the exact date was.

Q. What did you mean by some time in January or February when you testified a moment ago?—A. I said that was my recollection, but it might have been later or it might have been earlier. It would not have made any difference about the O. K. He has O. K.'ed those issues months after they became effective.

Q. It might have been the 4th of April, might it not?—A. No, it was before that.

Q. How do you know?—A. It might have been.

Q. It might have been the 4th of April?—A. It might have been after.

Q. Very well. Now, that billing order was the first one issued by the Alton Railroad that you know of?—A. I think you asked some statement of that kind this morning.

Q. Yes, sir.—A. In which I said there was no such issue of
11966 the Alton road.

Q. Prior to January 1, 1903; that is what you said.—A. I misunderstood your question, then.

Q. Oh, you have been talking to counsel since we adjourned to-day noon?—A. No; I was just simply asked the question how I understood it, and I understood you said 1902.

Q. Was there a billing order for 1902?—A. Not that I have any record of.

Q. You never saw one in your life, did you?—A. I never saw what?

Q. A billing order for 1902?—A. Not that I know of.

Q. Then there was none issued prior to January 1, 1903, was there?—A. There was.

Q. When?—A. For a number of years.

Q. Did you ever see them?—A. Yes, sir.

Q. Where are they?—A. I couldn't say where they are now.

Q. Didn't you say this morning that there was none issued prior to January 1, 1903?—A. I had reference to 1902. I understood you——

Q. Was there one issued in 1902?—A. I said no.

Q. There was not? Then, during 1902 there was no 6-cent billing order in force, was there?—A. I don't know of any.

Q. You never saw one?—A. No; I don't know of any.

Q. Now, didn't you investigate in the railroad office to find out whether there was one, and found out there never was one in 1902?—A. As far as my investigation went. When the issue was made up for 1903, I looked to see if there was anything for the previous year; that is, as covering the same thing.

Q. And what did you find?—A. I could not find anything.
11967 Q. Weren't you told that there weren't any?—A. No, I don't know that I was told there weren't any.

Q. What were you told?—A. I don't know that I was ever told——

Q. Whom did you talk with about it?—A. I didn't talk with any one except Mr. Wann, who gave the instructions to issue——

Q. Didn't he tell you there wasn't any?—A. No, sir, not that I know of.

Q. You didn't find any in the books, did you?—A. Not for 1902.

Q. What did you mean this morning by saying that prior to January 1, 1903, it was arranged by the auditor?—A. As I recollect, the auditor had previous issues on the same order as this, which carried the 6-cent rate for a number of years.

Q. They were not in your files?—A. The old ones were, yes, sir; that is, in the old files.

Q. What did you mean this morning when you said prior to 1903 there never had been a rate order issued?—A. I stated I understood you to say for 1902.

Q. Oh, for the year 1902?—A. Yes.

Q. I made it very distinct, didn't I, that I was talking away back to 1899, because I asked you about the 10-cent rate?—A. Not as I understood your question, Mr. Kellogg.

Q. Whom have you talked with since lunch about this matter?—A. Whom have I talked with?

Q. Yes.—A. I talked with Mr. Miller.

Q. Did he suggest to you that——A. He made no suggestion; he simply asked me questions.

11968 Q. What did he ask you about it?—A. He asked me if I understood your question to mean entire away back, and I said no.

Q. Was there any such billing order in the file that you were using for quoting rates prior to 1903?—A. Covering the entire period?

Q. Yes.—A. There was.

Mr. MILLER. This witness was not there prior to the middle of 1902.

Mr. KELLOGG. Well, we will see. He said they were in his file.

Q. What file did you see those billing orders in?—A. What we call our permanent files.

Q. What years were they for?—A. I don't recall that. Back prior to 1902.

Q. Where are they now?—A. I don't know.

Q. Are they destroyed?—A. Not that I know of.

Q. When do you recollect of seeing them?—A. I am not positive as to the time of that.

Q. Then, how do you know there were any such if you are not positive when you saw them?

Mr. MILLER. I object to the question for obvious reasons, apparent on its face.

Q. What were those billing orders, 6-cent rate?—A. Yes, sir.

Q. On petroleum?—A. Yes, sir.

Q. From what place?—A. My recollection is they covered the same as the present ones do from Chicago.

11969 Q. What years were they for?—A. I didn't go back to look over every year. I went to try to find out when it was first issued.

Q. What year did you find those billing orders in your files for?—A. As I said before, I did not go back into each year. I tried to find out when it was first issued, and, as I recollect, I found an issue of 1895.

Q. Is that the only one you found?—A. No.

Q. What others?—A. I had others.

Q. What others?—A. I don't recollect just what the dates were.

Q. What years, 1896?—A. I said I do not recollect.

Q. Did you see any except 1895?—A. I did.

Q. When did you find those?—A. As I said before, I do not recollect the time.

Q. How came you to look back there?—A. I don't just recollect the circumstances. It was either before or after the Alton case; just when I don't know.

Q. You would not be very apt to look after the Alton case, would you? Didn't you look it up before the Alton case with a view—A. Oh, I don't know.

Q. Who suggested to you to look it up?—A. It was my own.

Q. It was your own suggestion?—A. It was my own idea; I just wanted to find out for myself.

Q. Now, that trial was in 1906, was it, or 1907?

Mr. MILLER. 1907, January to April.

Q. That trial was in 1907?—A. Yes, as I recollect it.

Q. What did you do with that when you found it—the bill-
11970 ing order?—A. What did I do with it?

Q. Yes.—A. I didn't do anything with it.

Q. Did you look it up just for your own curiosity?—A. Yes, sir, that is what I did.

Q. Did you tell any of your counsel you had looked it up?—A. Not that I recollect.

Q. Did you tell Government counsel or defendants' counsel you looked it up?—A. Not that I recollect.

Q. You kept it to yourself?—A. I did.

Q. What did you do with it?—A. I believe I showed the issue to Mr. Wann or Mr. Blabon or one of our officers at the time I did it. Some question came up afterwards—not at the time I found it.

Q. What did you do with it after you looked it up and found it?—A. I didn't do anything with it; I simply left it there.

Q. What has become of it?—A. Why, quite a number of our old files have been removed from one place to another.

Q. If the file was moved, this was moved with it, wasn't it? Where did you move it to?—A. I think it was sent to the Grand Central Station.

Q. Is it there now?—A. I don't know; I have not been there for some time, in fact I have not been there since any of our files were brought there.

Q. Are you still in the employ of the Alton?—A. Yes, sir.

Q. When was it sent from your office to the Grand Central Station—the file containing this particular billing order?—A. There was a whole lot of them, not just one.

Q. There were not a whole lot of 6-cent billing orders, were there? I am talking about the one you looked up and the 6-cent
11971 oil billing order of 1895. That was in your file either just before or just after the trial of this Alton case in Chicago in 1907, you say. That is correct, is it? (No answer.)

Q. Now, what became of that billing order?—A. As I said, there were a lot of files——

Q. I am talking about the particular file.—A. It is in the file if the file is there.

Q. Where is the file?—A. As I said before, in the Grand Central Station.

Q. Why is it probably there? Did you send it there?—A. I didn't send it.

Q. Do you know who did?—A. There were a lot of files cleared out and sent over there.

Q. Was this file cleared out and sent over there?—A. Yes.

Q. It was in there when it was sent, was it?—A. It was.

Q. Have you looked since to see if it is in there now?—A. I have not.

Q. Will you do so?—A. I don't know whether I will or not.

Q. I want you to look and produce it before the examiner in court here.—A. I don't know that I can find it.

Q. I haven't asked you to say whether you know you can find it. Will you look for it, and if you find it, produce it here, Mr. Hollands?—A. Why, I can possibly do so.

Q. I don't want any possibility. I want to know whether you will try to find it and produce it here if you find it.—A. Well, of course it is not my property; it is the property of the Alton road.

11972 Q. Will you do it or will you not?

Mr. MILLER. Let him consult counsel of his company about what he will do in a matter of that kind. Does that satisfy you?

Mr. KELLOGG. No, that does not satisfy me.

Q. You are in charge of the tariff bureau?—A. I am not in charge to give the records out of the office, as far as that goes.

Q. You give out tariffs, don't you, without asking your superiors?—A. Yes, but this is an original file.

Q. Will you furnish a copy of it?—A. If it is satisfactory to the company.

Q. Now, do you recollect of ever seeing any other one than that one of the year 1895?—A. As I told you before, yes.

Q. Which year?—A. I don't recollect which one, and I don't recollect whether it was in 1895 or 1896 or what year it was.

Q. More than one year did you see?—A. Yes, sir.

Q. How many years?—A. I do not recollect how many years it was.

Q. Were they together when you last saw them in the file?—A. What do you mean by together?

Q. In one place, these several years' issues.—A. There was a large number of them.

Q. There was not a large number of the 6-cent billing order? Now, you know what I am talking about.—A. What I am trying to tell you is that there was a large number of tariffs.

Q. I am talking about the 6-cent billing order, and you know it.—A. That was one of a large number.

11973 Q. Very well. Now, you spoke about 6-cent billing orders. Were those 6-cent billing orders together when you last saw them?—A. I don't recollect seeing them more than the time I looked them up.

Q. Very well. Were they there then?—A. They were. That is, they were not together in one bunch; they were in separate books.

Q. Did you see any for the year 1902?—A. You have asked that question half a dozen times.

Q. Answer it again.—A. I said no.

Q. Did you for 1901?—A. I don't recollect dates back of that.

Q. Why do you recollect you didn't find one for 1902?—A. I have already said that I looked up in issuing this 1903 to see if I could find one.

Q. And you found there had none been issued, didn't you?—A. I have already stated that; I couldn't find it.

Q. Did your office have distributing sheets for these billing orders for years previous to 1903?—A. I don't recollect whether it was started in 1903 or 1902. Somewhere along in there. Prior to that time the distribution was shown right on the filed copy of the tariff.

Q. How did you happen to get up this one for 1903, this Exhibit 552? Did Mr. Wann direct you to?—A. Which one are you talking about?

Q. Exhibit 552, the one of Junary 1st, the first one you issued. [Handing exhibit to the witness.]—A. I already stated so, yes.

11974 Q. Mr. Wann directed you?—A. At Mr. Wann's direction, yes, sir

Q. That was issued, to the best of your recollection, some time in January or February? That is correct, isn't it?

Mr. MARTYN. Or December, he said.

Mr. KELLOGG. No, he didn't say December or anything of the kind.

A. I said it may have been issued in December, January, or any time, as far as that goes.

Q. Well, was it issued in December?—A. I said I don't know the exact date when it was issued; that is, when it was made up I am talking about.

Q. You wouldn't make it up in December and date it in January, would you?—A. Always, as a general proposition, we did. Most of those things were started about the first of December.

Q. The best of your recollection is it was made up in January or February?—A. I have already stated that I don't know as to just what the date was.

Q. What did you mean by saying your recollection was from the original which you carried in your pocket that it was made up in January or February? Will you please state again?—A. I said my recollection was that the O. K. on that was made some time in February or January. Now, under that the issue might have been gotten up ready in December, or it might have been in January, shortly after the first of January.

Q. But it was not issued until the fourth of April, 1903, according to *that?* [Handing witness paper.]—A. It was not distributed from our office until the 4th of April, 1903.

11975 Mr. MILLER. That is, according to the distribution sheet?

WITNESS. Yes. That is the record of the distribution. It might have been given out before that time.

Q. Now, at the time you made up that one [holding up paper], did you find any previous tariff or billing order showing a 6-cent rate on oil?—A. At the time I made that up?

Q. Yes, sir.—A. I don't know that I looked at the time I made that up.

Q. Where did you get this form?—A. That is a regular stock form that we had.

Q. Who told you how to fill it out, about the 6-cent rate on oil and collection to be through the auditor's office? Who told you how to do that?—A. As I said, the tariff was issued on Mr. Wann's instructions. Mr. Wann told me to put in a rate of 6 cents on oil from Chicago to East St. Louis.

Q. Did he tell you to make it "collection to be made through the auditor's office?"—A. That was put on there on the second issue (as I recollect) that was drawn up, after it was submitted to him.

Q. It appears to be on the first one that was ever issued, January 1, 1903?—A. That was as it was complete, as the O. K. went out of the office.

Q. What is that?—A. I say that is as it was O. K.'d to go out of the office, complete. I might explain there, Mr. Kellogg, that in issuing that—that is, in drawing it up—if it had been sent out before that and it was in error it would have been called back and a new one issued in its place.

11976 Q. You have no information that it was ever sent out or that there was ever any error about it, have you?—A. The records show for themselves; I haven't anything back of that.

Q. The records show it was sent out on the 4th of April, 1903.—A. I might explain just how the work of issuing those goes on.

Q. Is there any record in your office of any tariff ever having been sent out before April 4, 1903?—A. The distribution sheet would possibly have been torn up, because there was no——

Q. Was there any distribution sheet?—A. No; there is no record of it in the office.

Q. Very well, then, you are guessing about it being torn up, are you?—A. I am trying to explain how these things are handled.

Mr. MILLER. The course of business is something that you know of, but you have not any independent recollection about the particular transaction?

A. No.

Mr. MILLER. You don't know anything about the particular transaction of sending out that tariff, do you?

A. No, sir; I do not.

Mr. MILLER. You merely find a distribution sheet in your office?

A. Yes, sir.

Mr. MILLER. Now, you are telling the course of business?

A. That is why I am trying to explain as to the way——

Q. Why did you tell me this morning that this was the first one that was issued, if you had no recollection about it?—A. I tried to explain, Mr. Kellogg, right straight through that that is the final copy or the approved copy that goes out of the office, finally, according to our record.

Q. You do not have any recollection that it was ever issued
11977 before, do you, that it finally went out of your office?—A. I have no record of it.

Q. Do you have any recollection of it?—A. I have no distinct recollection of that particular transaction—that is, as far as the distribution went.

Q. In 1904, when you made up the one for 1904, you went back and copied the one of 1903?—A. Simply a reissue of that; yes, sir.

Q. And in 1905 you copied the one of 1904, did you?—A. Simply a reissue.

Q. You copied it almost verbatim, word for word, didn't you?—A. It might have been; yes.

Q. Isn't that the way you usually did?—A. Yes, sir; usually do.

Q. When you made up this one in 1903 you didn't find any to copy from, did you?—A. I have already stated that there was nothing in the file for that, for 1902.

Q. Now, what time did you transfer these billing orders from the regular files into the books, what time of the year?—A. As I stated this morning, it was some time in 1903.

Q. Early in 1903 or late in 1903?—A. Well, it was after the first of May, 1903, between that time and the first of January, 1904, or, rather, I should say between that time and the first of May, 1904.

Q. How do you recollect that?—A. For the reason that we moved from the Monadnock Block to the Grand Central Station May 1, 1903; we moved from the Grand Central Station May 1, 1904, to the Railway Exchange.

Q. Did the moving from the Monadnock Block to the
11978 Grand Central Station——A. No; it was during that time, during the time we were in the Grand Central Station, that we changed the tariffs in the quotation files and kept the separate books.

Q. Then, during 1902, if you had been asked to quote a rate on oil you would not have quoted that 6-cent rate, would you?—A. 1902?

Q. Yes.—A. If we had no issue covering a 6-cent rate.

Q. No. You would not have quoted it then, would you?—A. Hardly.

Q. Do you remember an investigation by the Department of Commerce and Labor which took place on this subject in 1905?—A. I believe I do.

Q. Do you remember Mr. Durand calling on you at your office and looking into these rates?—A. I do not recollect of seeing Mr. Durand until I saw him in Chicago a little while ago.

Q. You do not recollect him calling to see you in your office there in Chicago?—A. I do not.

Q. Do you recollect anybody coming?—A. As I recollect, I spoke to Mr. Earle quite often, quite a number of times.

Q. You do not recollect Mr. Durand coming there?—A. I have no recollection of ever seeing Mr. Durand until I saw him in Chicago. In fact I asked who Mr. Durand was.

Mr. MILLER. What do you mean by saying when you saw him in Chicago?

WITNESS. During the hearing a month ago or two or three weeks ago.

Mr. MARTYN. In this case?

WITNESS. Yes; in this particular case.

11979 Mr. MILLER. At the taking of testimony in this particular case, two or three weeks ago, in Chicago?

WITNESS. Yes; I was in court there a couple of days.

Q. Do you know Mr. E. Bogardus?—A. I do.

Q. Who is he?—A. He is an employee of the Standard Oil Company at Chicago.

Q. The Standard Oil Company of Indiana?—A. I don't know whether it is the Standard Oil Company of Indiana or what it is.

Q. It is the Standard Oil?—A. It is called the Standard Oil Company; I don't know whether it is Indiana.

Q. Their office is where?—A. At the present time corner of Clark and Adams streets.

Q. Where was it at that time, 1903 and 1904?—A. No. 5 Wabash avenue.

Q. Have you been in their office?—A. I have.

Mr. KELLOGG. I asked this morning about the 10-cent rate that was in existence. I did not know then whether the previous tariff had been put in evidence. Under our arrangement Mr. Durand had the previous tariff present and did testify that amendment No. 79 to tariff No. 56 took effect November 15, 1900, and contained the rate of 10 cents on oil from Summit to East St. Louis, and added to it were the words, "includes $3 car switching from Whiting, Indiana." Mr. Durand testified, on page 1608, volume 4. He had the tariff

with him and read from it the specific portions copied, but the full tariff was not put in.

Q. Is that your recollection, that that 10-cent tariff was an amendment to tariff No. 56?—A. As I stated this morning,
11980 my recollection is that it was taken up from the previous issue.

Q. Then, it was in effect during all the time you were in the Alton office, from 1902 down to the time it was canceled, whatever that time was?—A. If that is the record.

Q. Did you ever tell Mr. Bogardus that the special billing order, petitioner's Exhibit 552, was filed with the Interstate Commerce Commission?—A. I have already stated before that I never told Mr. Bogardus that that sheet was filed with the Interstate Commerce Commission.

Q. Did you tell him the original billing order, of which this sheet is a copy, was filed with the Interstate Commerce Commission?—A. No, sir.

Q. What?—A. No, sir.

Q. Did you tell him that the billing order, petitioner's Exhibit 553, was filed with the Interstate Commerce Commission?—A. No, sir.

Q. Did you tell him that the billing order, petitioner's Exhibit 554, was filed with the Interstate Commerce Commission?—A. No, sir.

Q. Did you tell him that the 6-cent rate was filed with the Interstate Commerce Commission?—A. (After some hesitation.) I have no recollection of telling him that.

Q. Didn't you swear in the case in Chicago that you did tell him that?—A. No, sir; I did not.

Mr. MILLER. I object to this as not proper cross-examination. If counsel persists in it and attempts to contradict the witness, he can not find any such evidence by Mr. Hollands.

11981 Q. Did you testify to this: "Q. I show you exhibits referring to the particular billing orders which I have just shown you, of the Chicago & Alton Railroad Company, and ask you to state whether or not you ever told Mr. Bogardus, of the Standard Oil Company, that they or either of them had been filed with the Interstate Commerce Commission?—A. I had no reason to tell him." The question was reread to you, and you answered, "No, sir."

Mr. MILLER. What Mr. Kellogg has read here from the record in the Alton case, the question and answer, as he now states it is precisely the same as he has asked the witness here, and the same answer was given; that is, whether he told him that this rate sheet was filed with the Interstate Commerce Commission. But his previous question that brought this up was whether he told Bogardus that the *rate* was filed, which is a different proposition.

Mr. KELLOGG. Oh, well.

Q. Did you ever tell him that the billing orders were filed with the Commission, or any one of them?—A. I have already answered that question.

Q. Answer it again.—A. The paper that you have, or the original copies, were never filed with the Interstate Commerce Commission.

Q. Did you tell him that the billing order was filed, or either one of them?—A. The billing order that you are speaking of now?

Q. Yes; or either one of them?—A. No; I did not.

Q. You never told him?—A. No; because I knew they were not filed.

11982 Q. Did you ever have any conversation with Mr. Bogardus in which you said to him with reference to these exhibits, or either of them, that they had been filed with the Commission?—A. You are asking whether I had a conversation with him?

Q. Yes, sir.—A. I have had numbers of conversations with him.

Q. Did you ever tell him, or have you any recollection of telling him, that the 6-cent rate was filed with the Commission?—A. I have already answered that, and say I have no recollection of telling him.

Q. Did you ever hand him the billing order, Exhibit 552——A. My best recollection is I have handed him copies of each one of those.

Q. Wait a minute until I finish. Did you ever hand him the billing order, Exhibit 552, and at the same time the application sheet and tell him that that rate was filed with the Commission?—A. I have no recollection of any such transaction.

Q. Did you ever hand him the application sheet with the billing order and tell him anything about its being filed or say anything about its being filed?—A. I have already answered that, and say that I have no recollection. I would not say that I did not say so.

Q. But you will swear you have no recollection of ever having done so?—A. Yes, sir.

Q. The application sheet would show on its face that it was filed with the Commission, wouldn't it?—A. It certainly would.

Q. And this shows on its face that it was not, doesn't it?—A. It shows so; yes, sir. But the two together did make the

11983 rate.

Q. Well, we will see about that. I show you petitioner's Exhibit 549, which purports to be an application sheet taking effect August 31, 1901, being I. C. C. No. 981. Are you familiar with that?—A. Yes, sir.

Q. That does not have listed in it the tariffs which are by the sheet made applicable, does it?—A. No, sir.

Q. It does not? As chief of the tariff bureau, do you have charge of the files of that office, the tariff files?—A. Yes.

Q. And the correspondence connected with the issuance of tariffs?—A. Yes, sir.

Q. With the Interstate Commerce Commission?—A. Yes, sir.

Q. Did you produce the original correspondence with the Interstate Commerce Commission, dated August 15, 1901, with Mr. Wann, in relation to those distribution sheets?

Mr. MILLER. I object to that as immaterial. Do you want to identify the correspondence?

Mr. KELLOGG. Yes.

Mr. MARTYN. He was not with the road at that time.

Mr. KELLOGG. Oh, well, it was taken from his files.

Mr. MILLER. Do you want him to state whether those letters came from his files?

Mr. KELLOGG. Yes, sir.

WITNESS. During the Alton trial in Chicago I was asked the question whether I had ever seen this correspondence. I said I never had. I was asked to look it up.

Q. You looked it up, did you?—A. I got the letters from our file, of which I believe these are a copy.

11984 Mr. MILLER. What did you do with them?

WITNESS. They went back to our file. Those letters were written long before I was ever connected with the Alton road, and they were filed away before I ever got there.

Mr. MILLER. These purport to be copies?

Mr. KELLOGG. No, sir; they are the original taken from your file, are they not?

A. These? No, sir. These are supposed to be copies. This is a letter supposed to come from our road.

Q. That is an original letter of Mr. Wann signed by one of his clerks, isn't it?—A. Whoever signed it was a clerk in the office at that time, yes, sir.

Q. That is an original letter, Exhibit 931–B?—A. I believe it is.

Q. You found the original file of letters of which two of these are copies in your office, didn't you?—A. In 1907, yes, sir; the first time I had ever seen them.

Q. Are they still there?—A. I believe they are; I am not positive.

Mr. MILLER. By agreement, Mr. Hollands is excused until to-morrow morning. His cross-examination will go on at that time.

11985 WILLIAM GEISER, called on behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Mr. MILLER:

Q. Where do you reside?—A. Neodesha, Kansas.

Q. Are you a producer of oil?—A. Yes, sir.

Q. Have you produced oil in the Mid-continent field? Is that where your business is?—A. Yes, sir.

Q. When did you commence there, and where?—A. In the beginning of the whole Mid-continent field is that?

Q. What is that?—A. In the beginning?

Q. In the Mid-continent field; yes.—A. I commenced at Neodesha, Kansas.

Q. Is that in Wilson County?—A. Yes, sir.

Q. And when did you commence out there?—A. I commenced in 1895.

Q. And where have you operated oil wells besides Wilson County, Kansas?—A. Peru, Kansas, and in the vicinity, and in the Territory.

Q. That is the State of Oklahoma now?—A. Yes, sir.

Q. Are you a member of any oil producers' association?—A. Yes, sir.

Q. What?—A. Of the Mid-continent Oil Producers' Association.

Q. Are you also a member of the Chautauqua Oil Producers' Association?—A. Yes, sir; I am president.

Q. You are the president of that?—A. Yes, sir.

Q. That is Chautauqua County, Kansas, is it?—A. Yes, sir.

11986 Q. Were you engaged in business in the production of oil in Chautauqua County in 1905?—A. Yes, sir.

Q. To what extent? What was your production there then?—A. Well, our production at that time was probably in 1895 about 18,000 or 20,000 barrels a month.

Q. You mean 1905?—A. 1905.

Q. And how many wells did you have?—A. At that time I suppose we had about sixty or seventy wells, along there—flowing wells.

Q. Where did your oil go to?—A. It went to the Prairie Oil Company.

Q. Did they buy your oil?—A. Yes, sir.

Q. Were your wells connected up with the Prairie Oil gathering pipes?—A. Yes, sir.

Q. During all of that year?—A. Yes, sir.

Q. Were they at any time disconnected?—A. No, sir.

Q. What is the relative importance or extent of Chautauqua County as a producing field, compared with the rest of Kansas?—A. It is the largest producing field in Kansas. It produces more oil, I think, than all Kansas.

Q. You stated that your tanks were at no time disconnected from the Prairie's gathering lines?—A. Yes, sir.

Q. How was it with the wells of other producers?—A. They have been all connected.

A. And not disconnected?—A. Not disconnected in our country.

Q. Do you know of the Prairie Oil & Gas Company throwing out wells there and disconnecting their pipes?—A. No, sir.

Q. If that had taken place to any considerable extent in

11987 any place there which you were familiar with, would you have known it?—A. I think so.

Q. If one should say to you that the Prairie Oil & Gas Company boycotted the whole Kansas field and threw out the wells, so that the producers had no market; that that was done February 10, 1905; that all pipe-line connections were taken out and an order was issued that purchases of oil would cease, what would you say to such a statement as that?—A. I would say that was not true.

Q. That was not true?—A. No, sir.

Q. Is that untrue to your knowledge?—A. Yes, sir.

Q. Then, if any witnesses testified to anything of that kind in this case in behalf of the Government, what would you say as to the truthfulness of the statement?

Mr. MORRISON. Wait a moment. I object to the form of that question.

Q. Was anything of that kind done?—A. Not to my knowledge.

Q. Would you have known it if it had been done?—A. I think I would.

Q. You were at that time a large producer of oil in the largest producing portion of Kansas, were you?—A. Yes, sir; I was the first one that sold oil to the Prairie Oil Company.

Q. And you continued to sell oil to them——A. Outside of Guffey & Galey I was the first one that sold oil to the Prairie Oil Company.

Q. And you continued to sell oil to them at all times thereafter?—A. Well, we sell some to other parties.

Q. I know, but did you remain connected up with the Prairie Oil & Gas, and sell to them?—A. Yes, sir.

11988 Q. When was it that the Prairie Oil & Gas began taking oil from you out there?—A. I think it must have been along in 1900 or 1901, along there. It might have been before that.

Q. During all the time since have they continued to be connected up with your wells?—A. Yes, sir.

Q. And with other wells that you know about?—A. Yes, sir.

Q. And taken the oil?—A. Taken the oil.

Q. With what companies are you connected?—A. I am connected with the Union Oil Company, which has about thirty-six wells; and with the Interstate, which has 115 or 120, along there; with Ewers & Company, 17; and the Penmar, Oklahoma, about 11 wells, I think it has; and with the Alameda, which has, I think, 10 or 12 wells.

Q. Do these companies operate in Kansas alone, or do they operate also in Oklahoma?—A. Also in Oklahoma, two of them.

Q. How is that?—A. Two of them are in Oklahoma.

Q. The rest in Kansas?—A. Three of them are in Kansas.

Q. What part of Oklahoma do your companies operate in?—A. One is four miles and a half southwest of Bartlesville and the other one is 28 miles southwest of Bartlesville, near Bigheart.

Q. And what do you do with your oil as produced in Oklahoma?—A. Well, the one lease we sell to the Prairie. The other lease we sell part of it to the Prairie. There is a little refinery there that we sell part to. We unhooked there; that is, we put up a tank on purpose for them.

Q. Do any other pipe lines reach your wells in Kansas than the Prairie?—A. That is all—yes, sir; the Refining Company

11989 at Niotaze, Mrs. Caseman gets some of the oil from that lease.

Q. In Kansas?—A. Yes, sir.

Q. And the rest goes to the Prairie?—A. Goes to the Prairie.

Q. Some other pipe-line companies beside the Prairie go into the Glenn Pool in Oklahoma, it has been testified to, but they do not come to Kansas?—A. No, sir.

Q. The Texas and the Gulf?—A. No, sir, they do not go to our wells.

Q. What is the fact as to whether, since the Prairie Oil & Gas Company have been operating pipe lines into and through Kansas

and into Oklahoma, independent refineries have been established in those oil-producing regions?—A. Yes, sir.

Q. They have established there and are now conducting the business of buying and refining oil?—A. Buying crude oil, yes.

Q. At what places are there refineries down there?—A. Well, there is one at Paola and one at Humboldt, and there are three that I know of in Chanute. Then, I understand that there is one over at Erie, but I never saw that one. Then there is one at Cherryvale and one at Niotaze; one at Caney, Kansas, one at Coffeyville, one at Longton, and then there is one at Neodesha. That is supposed to be a Prairie——

Q. Is there one at Caney?—A. At Neodesha there is the Prairie. They call it a Standard refining company.

Q. Now, how is it in Oklahoma? Those that you have mentioned are in Kansas?—A. Yes, sir. Well, there is one at Bigheart, and then there is one that I saw at Tulsa.

Q. How about Chelsea?—A. I don't know. This is Tulsa, right across the river.

19990 Q. Do you know of one being at Muskogee?—A. Yes; I heard of it. I have not seen it. I saw all those except what I have mentioned.

Q. Have your companies or firms sold oil to the Sunflower Refining Company at Niotaze?—A. At Niotaze, yes, sir; one company.

Q. Bigheart, is there a refinery there?—A. Yes, sir.

Q. That is in Oklahoma?—A. Yes, sir.

Q. What is the fact about the Prairie taking the oil to the capacity of their lines?—A. Well, they give us—they run about the most part of our oil. They don't run it all, all the time. They give us in proportion what other people are running.

Q. That is, they take from your wells the same proportion that they take from the production of other producers?—A. Yes, sir.

Q. And in your opinion——A. Well, with the exception of Kansas—of course they take all the oil there.

Q. They take all the oil from Kansas?—A. Yes, sir.

Q. Their capacity is ample to take care of the production in Kansas?—A. Yes, sir.

Q. The production in Kansas is comparatively small, isn't it?—A. Yes, sir.

Q. As compared with Oklahoma?—A. Yes, sir.

Q. Do you know what the policy has been heretofore in Kansas toward the promoting and encouraging the extension of pipe lines——A. Yes, sir.

Q. And as compared with what the policy has been latterly

11991 down in Oklahoma?—A. Yes, sir.

Q. How has it been in Kansas with respect to that?—A. Well, they laid their lines there in the beginning. Of course, we did not have so much oil as they had below and down in the Territory; why, they brought lines in just as fast as they could get them in or were permitted to get them in.

Q. They have been permitted to put them into Kansas?—A. Yes, sir.

Q. To supply the field?—A. Oh, yes.

Q. But the production of oil in Kansas is comparatively small?—A. Oh, my, yes.

Q. As compared with Oklahoma?—A. Yes, sir; probably not over one-tenth part of the oil; probably not, I dare say, one-fifth part of the oil.

Q. Now, about the Prairie Company's extending their lines to your wells in Oklahoma? What has been their treatment of producers in that respect?—A. Very good. I was away, I should say, in the neighborhood of 15 miles—12 to 15 miles—from production; it was a wildcat well, and they laid it in to us when we had a very small production.

Q. That is, when you struck oil, although your production was small——A. Yes, sir.

Q. They extended their gathering pipe, you call that——A. Yes, sir.

Q. Or lateral——A. Yes, sir.

Q. Out to your well?—A. Yes, sir.

Q. Some 15 miles, or thereabouts?—A. Yes, sir.

Q. That has been their policy and practice, has it?—A. Yes, sir; that has been their policy. They never unhook from a well after they get onto it, unless a man quits pumping—until he quits pumping.

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Q. What do you say as to whether they have ever refused or been unwilling to enlarge or increase the pipe lines in or through Oklahoma?—A. They have always been willing, so far as I know.

Q. What do you say as to the production of oil in Oklahoma, whether it has been and is ahead of the demand?—A. Oh, the supply is away ahead of the demand. That is where all the trouble comes from.

Q. Under all the circumstances prevailing out there, Mr. Geiser, what do you say as to the reasonableness and fairness of the price which the Prairie Oil & Gas Company has paid to producers for their oil?

Mr. MORRISON. That is objected to, because it is not apparent that this witness is a judge of that question, or that he is an expert, or has any knowledge.

Mr. MILLER. He has been an oil producer a good many years.

Mr. MORRISON. The price of oil there depends not only upon that field but upon the entire production and upon the market for it throughout the world.

The EXAMINER. You may answer the question.

A. I don't see any company that have done as well or would do as well under any consideration. We had a market all since I have been in business, from the Prairie—from the pipe lines that have been in Kansas.

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Q. What is the fact as to whether, during the time that you have been producing oil out there, which you say runs back now thirteen years or thereabouts—as to whether you have, as thoroughly as you have been able, kept posted upon the values of oil, and the fair prices, and all of that?—A. How long back?

Q. Since you have been producing oil out there in the midcontinent field? You have, have you, sought as diligently as you could to post yourself so as to know what the fair price of oil was—crude oil?—A. The price has been very fair, very good under all considerations and under all conditions. There never was anything fairer than they are in Kansas and the Territory.

Q. Now, I want to ask you with respect to your qualifications for knowing about that. What is the fact as to whether you have studied that question and investigated it, and kept yourself as well posted as you could? Have you done so?—A. Well, I came out of the army and went into the oil country, and I have been in it ever since.

Q. You have, have you?—A. Yes, sir.

Q. You have kept yourself posted?—A. Yes, sir.

Q. Do you know what the attitude of the producers of oil in the Oklahoma fields is toward the Prairie Oil & Gas Company, and their views and feelings as to the treatment which they have received from the Prairie Oil & Gas Company?—A. Well, sir, I think that 98 per cent of the producers of Oklahoma or in the West are very
11994 friendly to the Prairie Oil Company, without it should be an outside pipe line or an outside refiner.

Q. You think that that good opinion and feeling on the part of the producers is as testified by you?—A. Yes, sir.

Cross-examination by Mr. MORRISON:

Q. Where did you say you lived?—A. I live at Neodesha, Kansas.

Q. The Standard has a large refinery there, hasn't it?—A. Yes, sir, they have got a refinery there.

Q. Is that the largest one in Kansas?—A. Yes, sir, I think it is.

Q. That is connected with the Kansas field, is it, by pipe line?—A. By all pipe lines.

Q. And it is connected with the Oklahoma field, isn't it?—A. I think it is. I don't know.

Q. And it consumes about all the oil—about all the oil that that refinery consumes—or all of it comes from those two fields, doesn't it?—A. About all the refinery consumes—indeed I could not say.

Q. Those refineries do not buy of anybody, do they, but the Prairie Oil & Gas Company?—A. Indeed I don't know that.

Q. Was not this Chautauqua County Producers' Association formed as a protest against the Prairie Oil & Gas Company?—A. No, sir.

Q. Were you one of the organizers of that association?—A. No, sir; I was not.

Q. Were you in there at the first meeting?—A. Yes, sir.

11995 Q. Wasn't there a resolution passed at that first meeting condemning the Prairie Oil & Gas Company for not taking

as much oil from that field as it should take?—A. No, we said—some of them said that there was not as much oil shipped as they thought they were getting their share, and we got together and passed a resolution and asked them, and they hunted it up, and they found out that we were not getting quite as much oil as other people were, and they corrected that and gave us the oil; but they said it was an oversight, they did not know it.

Mr. MILLER. And did they rectify it?

WITNESS. Yes, sir.

Q. Then you were not always entirely satisfied, were you, with the Prairie Oil & Gas Company?—A. Oh, in that respect, no, we was not at that time, some of them.

Q. And was not that the reason that this Chautauqua County Association was formed?—A. No, sir; it was formed on account of trying to stop the boomer and the speculator that did not have any oil, that was no producer, from trying to legislate laws and things of that kind, to stop it, and we got together, the producers of the oil country, of that field. There was the Union and the Kansas—well, all of them you might say, except I think, one or two companies, and they were on the other side of it. Those that we represented, they were all represented in there.

Q. How did the boomer and speculator injure the producers?—A. Well, he made a great deal of fuss, and he only had a lot, maybe
11996 25 acres, or 25 feet by 117 feet long, and he wanted to drill wells on it, and he wanted to get his oil run, and all things of that kind.

Q. Who was that?—A. Well, that was all that was coming—about fifty of them in our town there.

Q. And the rest of you producers did not want them to put down their wells?—Oh, yes; oh, yes; we wanted to put down wells.

Q. What harm were they doing to you?—A. They were not doing any to me.

Q. Well, to the rest of the producers there?—A. Yes, sir.

Q. Why did you organize then as against those boomers and speculators?—A. Because they was unreasonable, trying to get oil run out when they could not get it run, when they could not get the facilities in there in the beginning.

Q. How did that affect the rest of you producers?—A. We had to wait and keep quiet until they got it laid in.

Q. You mean that you did not want any more oil produced in there than you were producing yourselves?—A. Oh, no, no; we wanted to get all the production out we could. We always do that.

Q. Then why were not these boomers and speculators a help to you rather than a hindrance?—A. Why, they were doing things; they were agitating and making a lot of noise, when the Prairie Oil Company was doing everything in its power to get pipe lines in and get tanks in and build them as fast as it could; and then the high water came along in St. Louis and got the cars all mixed up, and
11997 they would bring the bottom there of one tank and the rim of

another, and they just got mixed up all the way through. Now, that is they way that was.

Q. So that you producers who were friendly to the Prairie Oil & Gas Company thought you would organize——A. No, we was not friendly to anybody.

Q. ——and scotch out this uprising of the boomers and speculators?—A. No, we was not friendly to anything.

Q. Was that it?—A. We thought that they were doing the best that they knew how, and that is all we asked for.

Q. And you did not want them harassed, because they were doing you thought, the best they could?—A. Yes, sir.

Q. That was the idea?—A. Yes, sir. The other man was not doing anything only hollering. He was not——

Q. Then——

Mr. MILLER. Let him answer.

A. The other man was not laying any pipe lines. He was not building any tanks. He was only hollering.

Q. He was hollering because the Prairie Oil & Gas Company would not put in their pipes faster?—A. Yes.

Q. That was the idea?—A. They could not do it.

Q. And you sympathized with the Prairie Oil & Gas Company?—A. I did.

Q. And so you and the rest of the producers there, to stop these fellows from hollering about the Prairie Oil & Gas Company, organized this association?—A. Well, we had about 25 barrels to his one, and I think we ought to have had something to say about that, when a man was doing his duty and when he was not.

Q. You did not want them to do so much talking about the
11998 Prairie Oil & Gas Company?—A. No, we didn't care anything about that. It didn't need any legislation.

Q. It appears that that very association, at its very first meeting, passed resolutions of censure against the Prairie Oil & Gas Company?—A. Yes, sir.

Mr. MILLER. Wait a moment. I object to that. It does not appear at all in this evidence as far as I know.

Mr. MORRISON. Well, it appears from his statement.

Mr. MILLER. It has not at all. It has appeared merely from the question of the counsel, and the evidence is incompetent. The only way of proving what the resolution was is to introduce the resolution.

Q. Had you any other reason for forming that association than the reason you have already given?—A. We had the reason that we wanted to stop legislation in Topeka——

Q. Oh, yes.—A. And to stop the thing and stop hollering. It was not doing us any good, because there was nobody there laying pipe line or building refineries or building tanks, and what we wanted was to have the company go on and lay them in there, so that we could run our oil.

Q. What legislation was it in Topeka that you wanted to stop?—A. Well, there was a whole lot of it. I don't know just what; I didn't go up.

Q. Well, you must have known what it was, didn't you, at the time, or else you would not have been organizing to defeat it?—A. They wanted to make them a common carrier for one thing.

Q. You did not want that?—A. No.

Q. You thought that was all wrong, to have a common car-
11999 rier?—A. I thought it was an impossibility.

Q. Why?—A. Well, you can't ship black paint with a barrel of white, half of each, and get it out on the other end of the freight, ship it a distance and get it out all white when a man calls on you; it is simply impossible.

Q. You are shipping through the same line now, aren't you?—A. Yes, but he buys it at the well.

Q. Yes, but it all goes through the same line, doesn't it?—A. Yes, but it is his oil as it goes through, not ours.

Q. It goes, doesn't it, just exactly as it would go if those pipes were common carriers?—A. No, sir.

Q. Now, tell us the difference.—A. All right. The oil is of different gravities, and you take a tank at your well, right at the well where it is pumped in first, and if the tank is, say, 15 feet high, the gravity will vary on each 5 feet in that tank alone. If a man ships 36 oil, and he wants it shipped in that pipe line, and the balance of it is only 35 and 34 and 32 and 28, it would be an impossibility for that man to ship 36 gravity oil in that pipe line, and there is no use asking a man to try to do things that are impossible, in order to make laws of that kind. It is unjust to the company, to everybody.

Q. Now you get a certain price, do you not, for all of your oil that is above 32 degrees?—A. Yes, sir.

Q. And if it is 33, '4, '5, '6, or '8, you get just the same prices for it, don't you?—A. We do just now; not always.

Q. Yes?—A. Not always.

Q. Has it ever been any different?—A. Yes, sir.

12000 Q. When?—A. Lots of times where you get a premium on oil, certain oils in certain fields, at a certain gravity.

Q. When did you get a premium on oil?—A. I got a premium on oil in the East, not out here.

Q. Oh, I am talking now about Kansas.—A. Well, in Kansas; no.

Q. Now, if you mix your grades or your different degrees above 32, you are in the same condition you would be if the pipe was a common carrier, aren't you, as to all oil that is 32 or over?—A. Well, I will just say this, that the man that gets 40 cents for oil is getting an awful good price, when you begin to look at seventy-five or eighty million barrels of oil in storage in the field, and the Prairie Company take care of the ordinary small producer.

Q. Do you think that is an answer to my question? Just read the last question.

(The reporter read the last question.)

A. If the pipe line is a common carrier, of course there is some of that oil is a higher grade; I understand that. There is some of it lower; but on account of the overproduction at the present time, possibly the lower, the man below the 32 gets treated a little better than the fellow that has the better oil; but those things happen on account of the vast overproduction.

Q. Yes?—A. There is no way of getting out of it.

Q. Well, you are not answering my question.—A. Ain't I?

Q. Is that as good an answer as you can give to that question?—A. Well, read it over again and I will try.

12001 (The reporter read the question as follows: "Q. Now, if you mix your grades or your different degrees above 32, you are in the same condition as you would be if the pipe was a common carrier, aren't you, as to all oil that is 32 or over?")

A. Well I—32, let me see, that is 3—well, I don't know how that would be.

Mr. MILLER. Do you understand the question, Mr. Geiser? As I understand the question (Mr. Morrison can correct it if it is wrong), he asks you whether the producers of oil now selling their oil of 32 degrees or better for a fixed price, say 41, are in the same condition as if the pipe lines were common carriers. Is that it? That is, the producers now?

Q. Yes, the same condition; does the same condition exist now that would exist if the pipes were common carriers, as to all oil above 32 degrees?—A. Well, that oil at 41, I don't think so in that respect.

Q. Let me ask you this: How much of the oil produced in the Kansas field is 32 degrees or better?—A. Why, the most of it is better.

Q. The most of it is above that?—A. Yes.

Q. That is true of the whole field?—A. I should say half of it.

Q. How is that?—A. I would say possibly half of it.

Q. Well, half of it? Isn't there 95 per cent of it?—A. I don't know whether it is or not.

Q. Isn't that true of the entire midcontinent field, that 90 or 95 per cent of it is over 32 degrees?—A. I think most of it—I think it is—I don't know just how close.

12002 Q. As it is to-day, oil of 32, 33, 34, 35, and as high as it goes, is all mixed, isn't it, and you get one price for it, 41 cents?—A. Mine doesn't mix. I sell mine before I get it into the pipe line.

Q. How is that?—A. I sell my oil before it goes to the pipe line—at the tank.

Q. I know; all you producers do, don't you?—A. Yes.

Q. But it is mixed in the pipe line?—A. Yes.

Q. You are bitterly opposed to pipe lines being common carriers, as I understand you. Am I right about that?—A. I think that would hurt us. That is the reason I am against this.

Mr. MILLER. You think it would hurt the shipper. Is that what you mean—the producer?

The WITNESS. Yes; hurts the producer.

Q. You think it is better to have just one pipe line and one purchaser?—A. No, sir; no, sir.

Q. You would like more pipe lines, wouldn't you?—A. I would like to get all the pipe lines in that they can get in—all the refineries they can get in. That is what we want.

Q. Wouldn't you like to have as many purchasers as possible—A. Yes, sir.

Q. Competing for your oil?—A. Yes, sir.

Q. Then, as the Prairie Oil & Gas Company is not a common carrier and is the only purchaser, there is no competition there, is there, at all?—A. Why, there would be if they would lay lines in.

12003 Q. I know.—A. We have some competition. We have considerable.

Q. No, but as it is to-day, what competition have you to-day with the Prairie Oil & Gas Company in the Kansas field?—A. Why, we have other people buying oil.

Q. Who are they?—A. The Gulf and the Texas, and about a dozen refineries around there.

Q. What percentage of all the oil produced in the Kansas field is sold to anybody outside of the Prairie Oil & Gas Company?—A. Well, not a great deal.

Q. No, a very trifling amount?—A. But that is not on account of the common carrier business.

Q. And these competitors don't reach most of this territory at all, do they?—A. Well, they don't want to lay the lines.

Q. As a matter of fact, they don't reach them, do they?—A. They could reach them.

Q. Yes, they could, but they don't.—A. Yes, that is where the trouble is.

Q. So that your present situation is that you are compelled to sell your oil, practically all, to the Prairie Oil & Gas Company at whatever price it sees fit to give you?—A. No, sir.

Q. Tell us wherein that is not true.—A. If the Prairie Oil & Gas Company don't give me enough for my oil I won't give it to them; that is all.

Q. What will you do with it?—A. Well, sell it.

Q. To whom?—A. Build a refinery; it doesn't cost a great deal.

Q. It doesn't cost much to build a refinery?—A. No; it doesn't.

12004 Q. Where will you market your oil?—A. I don't believe from what I know about the business that there is enough in it.

Q. Enough in what?—A. In a refinery.

Q. Do you think that the Standard is not making much, then, refining oil?—A. I don't know what they make.

Q. Oh, no.—A. I am a producer.

Q. You don't think there is much in the refining business?—A. Oh, there is some money in it.

Q. You don't think the Prairie Oil & Gas Company is making anything, do you?—A. Oh, I think they are, or else they would not stay in the business.

Q. As it is to-day you have practically no purchaser in the Kansas field except the Prairie Oil & Gas Company, have you?—A. Yes, sir.

Q. Didn't you say that they take practically all of it?—A. Well, they do; but that is not on account that it is all we have got.

Q. Could all of the other purchasers in the field take your oil, and all you produce?—A. Why, they don't, the way they are working; no. They could.

Q. No; they have not the capacity, have they?—A. They would have if they would build it. They are making money.

Q. In order to handle that, oil pipe lines would have to be built in there to the Gulf, or else eastward to the Eastern refineries, wouldn't they?—A. Why, either that or move out there with their refineries; one or the other.

Q. How is that?—A. Either that or bring their refineries
12005 out there. Either way would be a good way.

Q. Suppose you had your refineries now, which you suggested a few moments ago; what would you do with your refined product?—A. I don't know. I ain't in the refining business.

Q. As I understand you, or as I understand the fact, rather, the Prairie Oil & Gas Company fixes the price that they shall pay for oil, don't they?—A. They fix their own price.

Q. Now you, as a producer, haven't anything to say about that at all, have you?—A. Yes, I have got something to say about it.

Q. What have you got to say about it?—A. If I don't want to give it to them I won't do it, if I don't think they are paying me enough.

Q. That is it exactly; you can either take their price or——

Mr. Miller. Or sell to somebody else.

Q. Or keep your oil?—A. No, I don't have to keep my oil.

Q. Are there enough other purchasers there now to take the oil of that field if the Prairie Oil & Gas Company did not take it?—A. I can take care of my oil.

Q. How is that?—A. I can take care of my own oil.

Q. Tell me how you would do it?—A. Build a refinery, and sell it.

Q. After you built your refinery, then what would you do with your oil?—A. The same as the Standard does—sell to the public.

Q. Ship it in cars around—tank cars, would you?—A. Yes.

Q. Buy some tank cars, I suppose?—A. Yes; that would be the right thing to do.

12006 Q. Do you know what it would cost you per barrel to ship it to Chicago or New York?—A. Well, there are no rebates now. It would not cost me any more than it would the other fellow, so I would have an equal chance on it.

Q. The other fellow has got a pipe line, hasn't he?—A. Yes; it costs money to run his oil.

Mr. MILLER. They don't run any refined oil through the pipe line. It is crude oil.

Q. You are perfectly contented with the present situation as I understand it?—A. No, sir; I am not.

Q. With whom are you dissatisfied?—A. I am dissatisfied because the outside competition don't come in and lay pipe lines and build refineries.

Q. If the Prairie Oil & Gas Company should make its pipe a common carrier, then you could sell to refineries all over the country, couldn't you?—A. Yes; but then there is one thing back of that. I don't want the Prairie or anybody else to take a commodity of mine where it can't be delivered. I know that. I know that commodity can't be delivered and be mixed.

Q. Don't they deliver it now after it is mixed?—A. Well, that is their own. They are buying it at the tank, at the well. That is easy enough. He can mix it any way he pleases.

Q. Your oil is mixed with the oil of every other producer in the field?—A. My oil is not mixed. He mixes it. I sell him my oil at the well.

12007 Q. It is practically mixed, isn't it, because you don't get any more for oil that is 36 degrees than your neighbor does for oil that is 32, because they are all mixed together, and you all get the same price. That is true, isn't it?—A. We do at present, yes, sir.

Q. You think, do you not, that the more bidders you have for oil, or the more purchasers there are who want your oil, the better it is for you?—A. Oh, my, yes; yes, indeed. That would be a nice thing.

Q. Now, if the pipe was a common carrier, wouldn't it bring about exactly that condition of things?—A. I can only explain that if we had all one kind of oil, and we could deliver our goods to another competitor, I would be awful glad if it could be done, but I know this also, that it is an impossibility and I will explain it in this way: If I had, for instance, or you had, 1,500 bushels of wheat at 60 pounds to the bushel, and my neighbor here had a thousand bushels at 58 pounds, and here is another neighbor has 500 bushels at 56 pounds, now, in mixing those articles together, which one would be cheated? Which one would get justice, and which one would not?

Q. Suppose the prices were all the same?—A. There are three men now that ship that commodity together, and in that commodity the 56-pound wheat has no fault to find, because he is ahead altogether; the 58-pound wheat has nothing to fear, because he only had a low grade; but you take the other man, on the other hand, he is out. The oil is the same way. The oil varies in price and varies in gravities and varies in its condition.

12008 Q. Suppose that the 58-pound wheat, as you call it, and the 60-pound wheat, and all other wheat above 56 pounds, brought exactly the same price, as your different grades of oil do in your oil field. Then it would not make any difference, would it, to the producer whether his wheat weighed heavily or whether it

weighed lightly?—A. This is another thing. At the present time there are, as I have said, nearly 80,000,000 barrels of oil on hand. It is cheap, although the pipe lines are paying a good price for the oil.

Q. You are not answering my question now.

Mr. MILLER. Let him go on.

Mr. MORRISON. No.

Mr. MILLER. He is giving another reason. Why can't he give it?

Mr. MORRISON. No, I am asking him a question whether or not if the wheat of different producers, although of a different quality, all brings the same price, then it would not make any difference whether it was mixed or not, would it?

Mr. MILLER. I object to that, as not in accordance with the fact.

A. If it was all the same price, why it would not.

Q. Now, isn't it true that in your oil fields there, your oil, everybody's oil that is above 32, whether it is 34, 36, or 38, all brings the same price?—A. No; I have got some I sell for 10 cents more than the market price now to the refinery in Bigheart.

Q. Now, tell us about that.—A. Well, sir, we had a little refinery at Peru, and they tried to experiment, making some oil, and the oil was no good. They could not refine it. They could not make any money out of it, so they moved it down to Bigheart. We had a lot of good oil down there, and they are making that now.

12009 Q. That is a little independent refinery?—A. Yes.

Q. They have come in there, and they are paying more than the Prairie Oil & Gas Company?—A. Yes.

Q. And you would be glad if they could consume all your oil, wouldn't you?—A. Sure; you are right. That is what I want them.

Q. So that it does pay to have some competition, doesn't it?—A. Yes, I say it does.

Mr. MILLER. Why, the witness has taught you that, Mr. Morrison.

Q. Now, you haven't answered my question yet, but I don't know as I care to press it. Your only objection now, as I understand you, to having the Prairie Oil & Gas Company's pipes a common carrier is the fact that there are different grades of oil produced in the same field. That is your only objection to it, isn't it?—A. Well, we shipped before——

Q. No; just answer my question. Is that or not your only objection?—A. Well, no; that it not my only objection, because——

Q. Now, let us get as far as we can. That is one objection, isn't it?—A. Yes; but the objection is on that because the time will come when oil will get scarce, when we will get more for high-grade oil.

Q. Let us cross that bridge when we come to it.—A. Well, I know, but we know that, and of course we are looking ahead for that bridge.

Q. You have answered my question that that is one objection. Now, is there any other objection, as conditions exist at this time?—

A. I have no objections to make. I am perfectly satis-

12010 fied the way the conditions are, and I am glad they are not any worse.

Q. Please answer my question. Do you know of any other objection to pipe lines being common carriers than the one you have stated, and that is that there are different grades of oil in the same field?—A. No, sir; that is all.

Q. That is all. Then, if that objection could be overcome in any way you think it would be a good thing to have them common carriers, don't you?—A. Yes; if it can be overcome, so that you can get a man's oil delivered, and it is the same gravity that he sells.

Q. You are perfectly satisfied with the price, as I understand you, that you are getting?—A. Well, no; I am never satisfied with the price; but I am satisfied with the price under the certain conditions as they exist just now.

Q. Under all the conditions you are perfectly satisfied with the price you are getting?—A. Not under all conditions, no; under the present conditions.

Q. Under all the conditions existing now I mean?—A. Yes, sir.

Q. You are perfectly satisfied with that?—A. Yes, sir.

Q. You sell some oil to the other pipe lines, do you?—A. Yes, sir.

Q. You named several refineries. You know which are Standard refineries, I suppose, and which are independent refineries?—A. Yes, sir.

Q. The independent refineries are pretty small, aren't they?—A. Well, some of them—no, there is a large refinery at Coffeyville, very large.

12011 Q. What does it consume—how much crude in a day?—A. They have a capacity there, as I understand, of about 4,000 barrels—three to four thousand.

Q. What company is that?—A. That is the National.

Q. 4,000 barrels a day?—A. Yes, sir. It may be less, but it is over two.

Q. Aren't you pretty high on that?—A. It is two.

Q. Is it over 1,500?—A. Well, you can call it 1,500. It is a good, big refinery.

Q. That would be a little nearer right, wouldn't it?—A. All right, if you know, take it that way.

Q. I am taking the witnesses that have been produced here on that subject.—A. One of the men told me it was 2,000 barrels. That I know of.

Q. Is that all the information you have upon it?—A. I saw the refinery. I should think it would do that.

Q. You think it would produce a couple of thousand a day?—A. Yes.

Q. You think that is about the capacity of it?—A. I think so.

Q. Why did you say 4,000 a little while ago?—A. Well, that was a mistake.

Q. Did you misspeak yourself, or what?—A. Yes, I think I did.

Q. Or were you reckless about what you said?—A. I didn't mean to. I can take it back.

Q. Do you know the capacity of the Standard's refinery at Sugar Creek?—A. No, I don't.

Q. At Neodesha?—A. Well, from what I hear—I under-
12012 stood it was about 2,500 at one time. I don't know what it is now, whether it is more or less.

Q. Now, isn't it 6,000 barrels at Neodesha and 16,000 at Sugar Creek? Is that right?—A. Indeed, I don't know that.

Q. Are you guessing about these things?

Mr. MILLER. I object to that.

A. Why, no; I have not said that.

Mr. MILLER. The witness has said he doesn't know, and I don't think that calls for the reflection that is contained in that question.

Mr. MORRISON. Do you think it is a reflection to ask a man if he is guessing?

Mr. MILLER. Yes; I think that question is obviously a reflection that was undeserved.

Mr. MORRISON. You don't think that the witness's method of answering here a few moments ago would warrant anything of that?

Mr. MILLER. No, sir; I think his answers have been perfectly frank and straightforward.

Q. Were there two Chautauqua County producers' associations?—A. There was another producers' association. I don't know whether they called it the State Producers' Association or the Chautauqua County. I forget the name.

Q. Was that organized there in Chautauqua County?—A. Yes, sir.

Q. Were the same people members of both companies?—A. No, sir.

Q. There was a sort of a rival company there, then, a rival associa-
tion?—A. I understand that was simply an organization of a
12013 few people that really called themselves that. I don't think they ever had a meeting of the producers.

Q. Now, those were the fellows that were opposed to the Prairie Oil & Gas Company, weren't they, in that association?—A. Yes, sir.

Q. And your association was favorable to the Prairie Oil & Gas Company?—A. We had the oil.

Q. You were the producers?—A. Yes, sir.

Q. They were producers, too, weren't they?—A. Some of them; yes.

Q. That was a producers' association—both of them were, wern't they?—A. It was; yes; one or two in it.

Q. And you both produced oil? That is it, isn't it?—A. Yes; we both produced oil.

Q. Which association was organized first, the one to which you belonged or the rival organization?—A. The rival association was first.

Q. Yes; that was first. How long had they been in existence when you organized?—A. Oh, it was only a short time.

Q. The Prairie Oil & Gas Company people were at the back of your organization, weren't they?—A. No, sir.

Q. Some of their producers were in it, weren't they?—A. No, sir.

Mr. MILLER. What do you mean by "their producers?"

Q. Had they any production there in that field?—A. Not that I know of at the time.

Q. Do you know Mr. H. E. West?—A. Yes, sir; he is a producer.

Q. He was instrumental in organizing the association to
12014 which you did not belong?—A. Yes, sir.

Q. Is he a pretty large producer?—A. Why, yes.

Q. One of the largest in the field, isn't he?—A. No, sir.

Q. Isn't he one of the largest, if not the largest?—A. He is quite a producer. He is a long way from the largest.

Q. Isn't he one of the largest in that county?—A. No, sir.

Q. How many more are there in that county that are larger producers than West. At that time I mean.—A. I think Mr. Peters was a larger producer, and myself, and Mr. Albright, I think, was a larger producer.

Q. How many members were there in your association when it was organized?—A. Well, I don't know. There must have been about fifteen or twenty, about all there was left there.

Q. Fifteen or twenty?—A. Except Mr. West, and I think Mr. West kind of quit agitating.

Q. You don't mean that Mr. West was all there was to this other organization, do you?—A. I don't believe there was very many.

Q. You don't think that he organized an association of which he was the sole member, do you?—A. No.

Mr. MILLER. He meant producers.

Q. You never were interested in any pipe line, were you?—A. No, sir—yes, I had a pipe line of my own.

Q. A little gathering line?—A. Eh?

Q. Have you got one now?—A. No.

Q. Where was it?—A. Out at Peru.

12015 Q. Where?—A. At Peru, Kansas.

Q. How long was it?—A. Oh, I don't know. A couple of miles.

Q. A gathering line?—A. Yes.

Q. A little pipe that led off——A. Yes.

Q. What did it connect with?—A. Connected with the railroad.

Q. That was before the Prairie Oil & Gas Company pipe line went in there?—A. Yes.

Q. You had a little line, then——A. Yes, sir.

Q. That connected up with the railroad?—A. Yes, sir.

Q. And it ran by gravity I suppose, didn't it?—A. No; I pumped it.

Q. Pumped it. That is the only pipe line experience you have ever had?—A. That is all.

Q. Pumping it through that pipe from the wells to the station?

Redirect examination by Mr. MILLER:

Q. How long have you been engaged in the oil business altogether?—A. Since 1867.

Q. You said that you sold some oil, you told Mr. Morrison you sold some oil to some refineries out there or to a refinery, at a higher price than the Prairie paid you?—A. Yes, sir.

Q. Where was that refinery situated with reference to the production?—A. Oh, that was close to the production, within about three or four miles.

Q. It was right there where they could get their oil right from the field?—A. Yes, sir.

Q. Without any investment——A. Yes, sir.

12016 Q. Or piping of the oil to any considerable distance?—A. Yes, sir.

Q. What is the quality of the oil they got?—A. About 33 or a little over.

Q. How far is the refinery at Bigheart situated from the wells?—A. It is about two miles.

Q. That is right in the producing district?—A. Yes, sir.

Q. In the Kansas fields is there any oil below 32?—A. Yes, sir.

Q. How much?—A. Oh, I don't know.

Q. Be divided pretty nearly in the middle between that which is 32 and better and that which is below?—A. Well, not in our field. I suppose there would be about, possibly, a quarter of it, pretty close to it from what I see, from the reports we have in our office.

Q. How is it outside of Chautauqua County?—A. Oh, it is worse than that. It is not as high. We have the best oil in Chautauqua County.

Q. The other is poorer oil?—A. Yes, sir.

Mr. MORRISON. You are talking about Kansas, I suppose?

WITNESS. Yes.

Q. Isn't there some oil in the Kansas field that runs down to 24 gravity?—A. I think there is. I think there is some of it down to 18. I drilled a well for some parties up at Humboldt, and the oil was only about 18 or 20. A fellow could almost shovel it.

Mr. MORRISON. That is a different field.

12017 Q. All the oil that is sent through the pipes of the Prairie Company, goes through the same main lines of pipe, does it not?—A. Sir?

Q. All the oil goes through the same main lines of pipe of the Prairie Company?—A. I think it does.

Q. And those main lines of pipe run from Kansas City down through the Kansas field, with all the time laterals running off and bringing in the oil into them, away down into Oklahoma, don't they?—A. Yes, sir.

Q. And then at those different oil-producing fields there are lateral pipes running off to the local fields, are there not?—A. Yes, sir; all over.

Q. Then from these lateral pipes other pipes run off toward the wells?—A. Yes, sir.

Q. And then from that a pipe to this well and a pipe to another well, and so on, so it is like a tree with its branches is it not?—A. Yes, sir; scattered all over the field.

Q. The smaller branches being the gathering lines from the individual wells, and they come together in larger pipes, and so on, until they come to the main pipes?—A. Yes, sir.

Q. And all of that oil that is so bought and put into those pipes runs through the same pipes, whether the gravity is high or low?—A. Yes, sir.

Q. Now, if there is a gravity of 30—by the way, the oil in these different wells in the same locality varies also in gravity, does it not?—A. Sometimes on the same farm.

Q. Some of the Oklahoma oil is of lower gravity——A. Yes, sir.

Q. For instance, around the Shallow Sands. Now, if oil of
12018 30 degrees and oil of 40 degrees were put into the same pipe in the same quantities, the result of the mix would be oil of 35 degrees, provided the oil did not depreciate by evaporation or anything of that kind?—A. I don't understand.

Q. Would the mixture be oil of 35 degrees? Suppose oil of 30 and oil of 40 be mixed together, would the resultant mix be oil of 35 degrees gravity?—A. I think it would. I don't know that just exactly, whether it would or not, but it would look that way.

Q. What about these shouters that you spoke about. Were you afflicted with people of that kind in your oil fields?—A. Oh, yes; we had lots of them.

Q. Men who produced with their mouths largely?—A. Yes, sir.

Q. You thought they or their ideas were of no very great value to the business of the producer?—A. No, I did not.

Q. Among those were a lot of people who go into the oil business for a mere speculation?—A. That is all, selling stock without any oil.

Mr. MILLER. It is not to produce oil, but it is to produce stock and victims. I think that is all.

By Mr. MORRISON:

Q. You were opposed to them, weren't you?—A. No, I liked them first rate. They were good fellows every other way.

Q. Yes; but you were opposed to their talking so much?—A. I was opposed to them talking for something when there was nothing wrong.

Q. You were opposed and are opposed to pipe lines being common carriers, aren't you?—A. Not if it could be done. I would
12019 like to see it.

Q. Well, whatever your reasons are, you are opposed to it, aren't you?—A. I won't say that. I will say it can't be done, that is all. It is an impossibility.

Q. Because it is a physical impossibility?—A. Yes, sir; I have explained that—the reason why.

Q. And you were opposed to all this proposed legislation out there in Kansas that tended to restricting the rights of pipe-line com-

panies?—A. Well, I was opposed, so far as making the pipe line a common carrier. I was willing for the pipe lines to come in there, be glad to see them, and take our oil. I should like to see competition.

Q. You organized your company to resist all of that legislation out there in Kansas with reference to pipe lines, didn't you?—A. We didn't go up to Topeka.

Q. No; but you organized for the purpose of creating a sentiment against the passage of those laws?—A. We just wanted to——

Q. No; just answer my question. Did you organize for that, or didn't you?—A. We just wanted to get our own from the pipe line. They thought we was not getting enough oil run in proportion to the other fields.

Q. Now you are not answering my question at all.

Mr. MILLER. Yes; he is telling you the purpose.

WITNESS. Yes; I am telling the purpose.

Q. Didn't you organize this association in part to create a sentiment against the passage of the pipe-line laws in the Kansas legislature?—A. No, sir; I don't think we did.

12020 Q. Didn't you say so to me a little while ago on your cross-examination?—A. It was the object of bettering our condition and to stop the hollering of the Kansas people, or going to the legislature for an enactment; that if we had any grievances we would go directly to the pipe line, which we did.

Q. That is it. You did not want them to go to the legislature with it, did you?—A. Oh, they went anyhow.

Q. That is not the question. You and your association did not want them to go to the legislature and get laws passed?—A. The legislation was organized before—the company was organized—the independent producers; that is, the producers that were after any legislation, were organized before we organized ours, long before.

Q. Didn't you organize that association for the purpose of preventing legislation?—A. No; I don't think we did.

Q. You don't?—A. I don't think we did.

Q. You said you didn't want people to go over to Topeka and pass laws?—A. Well, we didn't.

Q. You didn't?—A. Yes; but we wanted to stop them before they went there. There was no reason for it.

Q. That was what you organized for, wasn't it?—A. Well, in a degree it was.

Q. Yes; that was it exactly. You wanted the Prairie Oil & Gas Company to run without any laws restricting them at all?—A. No.

Mr. MILLER. I object to that.

Q. That was the idea, wasn't it?—A. No, sir.

12021 Q. What kind of laws did your association organize to oppose?—A. Well, what the producer—what we want is to have competition through building refineries in the field, laying pipe lines of their own, and taking our oil from the wells and shipping it, and buying at the wells. We are producers.

Q. Was there any proposed legislation to prevent the building of refineries or the building of pipe lines, or for the destruction of a market?—A. There was a destruction of the market.

Q. What destroyed it?—A. Because they were hollering all the time, and the pipe lines were doing everything they could to get facilities to take care of our oil, and I thought——

Q. And that destroyed your market, did it?—A. Well, that keeps it back.

Q. And you wanted to prevent all that talk and commotion?—A. Yes, I did, trying to make business.

Q. In other words, you didn't want any laws passed on that subject?—A. I didn't care what laws were passed, so long as they passed laws that looked right for our business.

Q. What law was there that didn't look right for your business, that the Kansas legislature proposed to pass?—A. Well, I don't know. They have not passed—passing the freight-rate bill, that is all I know anything about, and I wasn't up there; had nothing to do with it.

Q. You were opposed to their lowering freight rates, were
12022 you?—A. Oh, no; oh, no, indeed; I was for it.

Q. Was it the freight bill that your organization was organized to oppose?—A. No, sir; no, indeed.

Q. Did not have anything to do with it?—A. No, indeed; that is what we wanted.

Q. Well, what was it? Will you tell me what law it was you thought they were going to pass that you did not want passed?—A. Well, I will tell you. I could not tell you what laws exactly they were trying to pass, but they were trying to pass a good many laws and talking about it. We simply wanted the producers to understand—those were new producers—we were old producers, and we wanted them simply to understand that we wanted to do everything that we could to get this pipe line in or any other pipe line. What we wanted was a pipe line in a peaceful way. We didn't want any fuss about it.

Q. And you thought the legislature was going to do something to prevent, or pass some laws that would prevent pipe lines going in?—A. They pass a good many things that they oughtn't to.

Q. The Prairie Oil & Gas pipe line was in there at that time, wasn't it?—A. Yes, sir.

12023 By Mr. MILLER:

Q. At the time your association was organized was the legislature of Kansas in session?—A. No.

Q. It had adjourned, hadn't it?—A. I think so.

Q. And the sessions of the legislature are every two years, aren't they?—A. There was no legislation going on when we were organized.

Q. You told Mr. Morrison that your old producers wanted to give the new producers to understand that you wanted more pipe lines

and you wanted to get them peaceably. You were trying, on behalf of the substantial interests of your community, to give people who might come there to produce oil, or otherwise, to understand that they were safe in coming there?—A. Yes, sir.

Q. And that their business would be conserved, and that you could get what your business required, instead of having a lot of "shouters" coming there to raise the question, I suppose, of "What's the matter with Kansas?"—A. Yes, sir.

By Mr. MORRISON:

Q. Did you want to get more producers in there?—A. Yes, sir.

Q. How would that help you?—A. That will help me. I went out there thirteen years ago and there was nobody there except one man. There was lots of land around there, but we didn't know where the oil was.

Q. If there were more producers there would be more oil on the market?—A. Yes; but we didn't care for that. We have got more trouble in finding it than we have in selling it.

Q. You wanted to get all the producers you could get in there and find all the oil you could and put it on the market, I suppose?—A. Yes; that is our business.

12024 Q. You wanted new men to come in there?—A. Yes.

Q. And new producers, and to open up new wells?—A. Yes, sir.

Q. And increase the business?—A. Yes, sir. That would increase my business.

Mr. MILLER. And new refineries?

WITNESS. And new pipe line companies.

Mr. MORRISON. Wait, Mr. Miller. I can't cross-examine you both at the same time.

Mr. MILLER. I was helping you to get material information.

Mr. MORRISON. No; you are not.

Q. Now, let us get right down to this question. Did you want to quiet the agitation in your district so as to induce more producers to come in there and open up new wells and compete with you?—A. They are not competing with me.

Q. No; answer my question.—A. I wanted new producers in there all the time.

Q. How would that help you? Just explain.—A. Well, sir; I will. For instance, I was in Kansas in the beginning, and I went out in the country and took up leases, and I drilled, I think, 12 or 13 wells, and I could find but very little oil. Towards the last I found a little oil. Well, if there had been a producer out there who would have drilled some of those dry holes then I would have known where not to go. But after he comes in there, then I can tell better where I have got to go to get oil.

12025 Q. I see. That is as plain as day. You wanted to get some suckers out there who would bore into the dry holes?—

A. Well, I was a sucker myself. I didn't want them to be in any worse condition than I was, but I didn't want to spend all my money in the ground.

By Mr. MILLER:

Q. You would like to have additional refiners feel safe to come out there?—A. Yes, sir. We want refineries out there at the wells and pipe lines and anything else we can get.

Q. You would like to have the business out there, and legislation affecting the business conducted on safe and sound lines and in the interest of the business?—A. Yes, sir.

Q. And not in the interest of the agitators?—A. Yes, sir.

Mr. MORRISON. You are a very good witness, Mr. Miller.

(An adjournment was here taken until the morning of Friday, November 13, 1908, at 10.30 o'clock.)

12026 ROOM 515, CUSTOM-HOUSE,

New York City, Friday, November 13, 1908—10.30 a. m.

The hearing was resumed before the special examiner, Hon. Franklin Ferriss, pursuant to adjournment, at the above time and place.

Present: On behalf of the petitioner, Mr. Frank B. Kellogg, Mr. Charles B. Morrison. On behalf of the defendants, Mr. John S. Miller, Mr. Chauncey W. Martyn, Mr. Douglas Campbell, and Mr. W. Cleveland Runyon.

FREDERICK S. HOLLANDS, recalled and his cross-examination resumed, testified as follows:

By Mr. KELLOGG:

Q. As I understood you yesterday, referring to the application sheet and the billing order, you said the two together made a rate from Whiting to wherever the destination was, East St. Louis or St. Louis?—A. East St. Louis.

Q. Now, is it not a fact that after the correspondence which I showed you, dated August 15, 1901, the Chicago & Alton Railroad changed its application sheets and recited in the application sheets a list of tariffs which would be made applicable to Whiting and other points named therein?—A. As I stated yesterday, I had no knowledge of the correspondence; but the sheet that you referred to was issued after that correspondence had been received by the Alton road.

12027 Q. Now, that correspondence named the application sheet, petitioner's Exhibit 549, I. C. C. No. 981, and in substance demanded—stated——

Mr. MILLER. I object to that. The letter shows for itself. It is in evidence, is it?

Q. Yes; it is in evidence—and in substance stated that it did not plainly show the rates to be charged as the law required, and called on them to reissue the schedule, by a supplement or otherwise, and make a reference therein to the tariffs, did it not?

Mr. MILLER. I object to that. The letter shows for itself.

Q. The first one is the letter to the auditor. [Witness examines letters.]—A. This says—whoever writes it says, "I have to request that the schedule be reissued as a supplement to the tariff, showing the rates, or that reference be at least made to the I. C. C. numbers of such tariffs, so that the Commission may have ready access to same."

Q. Certainly. Now that letter also referred, did it not, to I. C. C. 981, which was the application sheet, petitioner's Exhibit 549, and said that it did not show that list of tariffs, didn't it?

Mr. MILLER. I object to that on the same ground. The letter shows for itself.

Q. In the very first clause of the letter?—A. That referred to I. C. C. 981.

Q. Yes. Now, the next application sheet issued by the Alton road was I. C. C., No. 1203, wasn't it?—A. I C. C., No. 1203, shows that it cancels 981.

12028 Q. Then, it is the next one issued, isn't it——A. Yes, sir.

Q.—and filed with the Commission?—A. Yes, sir.

Q. Now, that did contain a list of tariffs, showing the rates from Chicago, and made therein applicable to Whiting and other places, didn't it?—A. It shows a partial list of tariffs; yes, sir.

Q. I ask you if it did contain a list of tariffs?—A. It contains a list, which is not a complete list.

Q. It did contain a list of tariffs made applicable in that way, didn't it?

Mr. MILLER. That is objected to. It shows for itself.

A. The list shows there on the tariff.

Q. It did make applicable that list of tariffs to Whiting, didn't it?—A. There is nothing in that issue that says they are applicable to Whiting except the top part of the tariff, which says that any list naming rates from Chicago is applicable to Whiting.

Q. Is there in that I. C. C. 1203 a list of tariffs (I have not said whether it is complete or not), but a list of tariffs——A. There is a list on the bottom.

Q.—which is by this application sheet made applicable to Whiting?—A. The application sheet reads that any——

Q. Can't you answer that question?—A. I am giving you just as the application sheet states.

Mr. MILLER. I object to that. The application sheet is the best evidence.

Q. Is that list of tariffs, recited in that application sheet

12029 1203 by the application sheet made applicable to Whiting?

Mr. MILLER. Wait a moment.

Q. That is a very simple question.

Mr. MILLER. I object to that, on the ground that the application sheet shows for itself what is made applicable to Whiting, and it is not tariffs; it is rates, by its very express terms.

A. Please read the question.

The reporter read the question, as follows: "Q. Is that list of tariffs recited in that application sheet 1203 by the application sheet made applicable to Whiting?"

A. The tariff says itself that the same rates as apply between Chicago and points on the C. & A. in Illinois and Missouri, also connecting lines, will apply between Whiting, Indiana, and the same territory as I first read; the tariffs shown below in this list are tariffs applying rates from Chicago.

Q. Are they made applicable to Whiting?—A. They are, certainly, under this clause.

Q. Well, are they made applicable to Whiting?—A. Yes, sir.

Q. Then why didn't you say so?—A. Under this clause.

Q. Why did you put them in there? You made that up, didn't you?—A. I did.

Q. What did you put them in there for?—A. To give a matter of information, a certain tariff that would apply from Whiting.

Q. That is it; because the Commission had asked for it, didn't you?—A. No, sir; I never put it in there because the Commission had ever asked for it. I had no knowledge that the
12030 Commission had ever asked for it when I put them in there.

Q. You put them in there to show a list of tariffs applicable to Whiting, did you?—A. I put them in there as a matter of information, showing some of the tariffs that would apply from Whiting, Indiana.

Q. Why didn't you say, "This is a partial list of tariffs made applicable to Whiting?"—A. It was not necessary. It does not say it is a complete list.

Q. It does not say it is a partial list, does it?—A. No; but anybody might infer that it is a partial list.

Q. Is there one single billing order listed in that list?—A. Billing order?

Q. Yes, sir.—A. No, sir; there is not, but there is local tariffs.

Q. Are there any tariffs reading from Chicago to any point, except billing orders, which are not listed in that list?—A. Yes, sir.

Q. What are they? Name one.—A. Name one—there was one tariff between Chicago and Peoria, Illinois.

Q. Was it a billing order or was it a tariff?—A. It was a tariff, the same as the other tariffs.

Q. Was the rate 6 cents or more?—A. It carried rates——

Q. Was that rate 6 cents or more?—A.—on various commodities.

Q. Was that rate 6 cents a hundred or more?—A. What are you talking about—oil?

Q. No; was that a rate of 6 cents or more or less than 6 cents?—A. The tariff I refer to carried a large number of
12031 commodity rates, of which there were——

Q. Were there any of them less or over 6 cents?—A. They might have been more and they might have been less.

Q. You don't know whether they were or not?—A. I know there were some more, and I know that possibly there were some less.

Q. Give the number of the tariff, and tell us what it was.—A. That is a hard matter to do.

Q. Where did it run from? Where did it read from?—A. I have already stated—from Chicago to Peoria.

Q. Will you produce that tariff?—A. I think I can.

Q. All right, produce it.—A. Not here, of course.

Q. Well, what other one? Name it so that we can identify it.—A. Let me see that again, please.

Q. (Handing witness papers.) I am not talking about billing orders.—A. Well, they are tariffs, just the same as——

Mr. KELLOGG. I exclude those from my question.

Mr. MILLER. Mr. Kellogg, I think, means a tariff containing more than one commodity.

WITNESS. Yes. Well, I was just looking here. Our 10,525, I don't know whether it was issued——

Mr. MILLER. 10,525 succeeded another one, didn't it?

WITNESS. Yes; G. F. D. 56.

Mr. MILLER. Is that listed on there?

WITNESS. No, sir; neither of them.

Q. Where did that read from?—A. It made various rates from Chicago, as well as other points in Illinois.

Mr. MILLER. You mean by No. 56, G. F. D. No. 56?

12032 WITNESS. Our G. F. D. No. 56; yes, sir.

Q. That was not filed with the Interstate Commerce Commission?—A. It was not. Here is a tariff here which states on here was not filed with the Interstate Commerce Commission.

Q. Yes; I understand, but it is recited here what it is?—A. Yes.

Q. Have you got G. F. D. 56?—A. I am not sure about that.

Q. Did that contain rates from Chicago?—A. It did contain some rates from Chicago.

Q. 6 cents or more?—A. Oh, yes.

Q. All right, produce it.—A. It might have had some less.

Q. Produce that, will you?

Mr. MILLER. We will produce that to you. I think we have that tariff, Mr. Kellogg.

Q. Were there any I. C. C. tariffs that were not listed here?—A. The tariffs I gave you reference to just now, the G. F. D. 56, 10,525, and the Peoria tariff was not filed with the Interstate Commerce Commission.

Q. I say, were there any I. C. C. tariffs which were not listed in this list in 1203—I. C. C. 1203?—A. Well, I should say yes.

Q. Where are they? What were they? Name one.—A. Let me look at that list again. [Paper handed to witness by Mr. Kellogg.] I could not name anything offhand without referring to our records.

Q. You don't know there were any?—A. Oh, I know there was some; yes.

12033 Q. Name one of them. Tell me what it is.

Mr. MILLER. Might I suggest one to him, so that he will——

Mr. KELLOGG. Yes.

Mr. MILLER. Through freight rates No. 47, I. C. C. No. 81. [Handing paper to Mr. Kellogg.]

Mr. KELLOGG. That one that Mr. Miller cites provides right on its face where it is applicable, doesn't it?

Mr. MILLER. Well, I know. Is that named in the——

Mr. KELLOGG. Naturally not, because it provides on its face where it is applicable. [Handing the paper produced by Mr. Miller to the witness.]

Mr. MILLER. Look and see.

Q. To Whiting, doesn't it, right on the face of the tariff?—A. It shows that it applies from Whiting, Indiana.

Q. Yes, sir; right on its face.

Mr. MILLER. Does it show on its face that it applies from all Chicago switching points?

WITNESS. It does not show that it would apply from those points in connection with the Chicago & Alton Railroad.

Mr. MILLER. No. Then your application sheet would be necessary to apply that tariff to——

WITNESS. As a matter of information; yes, sir.

Q. Is not the Chicago & Alton Railroad a party to this?—A. I believe so.

Q. Then it shows it is applicable from Whiting, doesn't it, right on its face?—A. Yes, sir; but there are other lines——

Mr. MILLER. Not from all points—all points named in the Chicago application sheet Nos. 1203 and 1407.

12034 Mr. KELLOGG. They are all named there, every one of them—all the points.

Mr. MILLER. I think I will offer this tariff in evidence now, as we are asking the witness about it. Then it will show for itself. We are stating what it shows and what it does not show.

Mr. KELLOGG. You don't want to print that whole tariff in evidence?

Mr. MILLER. I don't mean that necessarily, but we will put in evidence some portion of it.

Mr. MARTYN. There are one or two pages of that we will want to have copied.

Mr. MILLER. We will put in evidence some portion of it.

WITNESS. The tariff?

Mr. MILLER. Wait a moment. This tariff may be given an exhibit number, and counsel for defendants will, with the consent of the counsel for the Government, specify such parts of the tariff as are to be included in the transcript to be printed.

(The paper referred to is marked Defendants' Exhibit 222.)

Q. Will you produce now any tariff, except special billing orders, which was applicable from Chicago and not listed in this list of 1203, which contained any rate of 6 cents or more—at that time, I mean?—

A. As I spoke about G. F. D. 56, would that be one of them? Would that be satisfactory?

Q. Any——A. And will it be satisfactory if I give you reference to the I. C. C. number where it was afterward filed with the Interstate Commerce Commission?

12035 Q. Afterwards filed! I say, filed at that time with the Interstate Commerce Commission.—A. It was not filed at that time, for instance, this Peoria tariff, but was afterwards.

Q. When afterwards?—A. Oh, some time.

Q. 1906?—A. Possibly.

Q. Well, give me both the unfiled and the filed tariffs at that time?—A. This particular one, the Chicago-Peoria tariff, I can probably produce that.

Q. All right, sir.—A. I would like to state, in answer to your question in regard to this tariff——

Mr. MILLER. Give the number, identify it.

A. —Exhibit 222, on page 28, it says, "The rates to and from Chicago and Evansville, Indiana, published in this tariff, will apply to and from C. & A. railway stations given herein." The application sheet would apply it from other suburban stations in addition to those.

Mr. MILLER. That is, you mean application sheet 1203?

WITNESS. Yes, sir.

Mr. MILLER. And 1407.

Q. Well, then, if you only listed a partial list of the tariffs—what was the object of giving only a partial list of the tariffs in 1203?—A. Why, those were mostly there—the tariffs shown there are mostly committee publications.

Q. Not all?—A. No; they are not all.

Q. Then why didn't you put them all in?—A. We just simply showed the most important ones.

Q. You did not consider the 6-cent oil rate an important rate?—A. There were lots of other rates that were not shown, in addition.

12036 Q. Did you consider the 6-cent oil rate an important rate?—A. To a certain extent, yes. It was not——

Q. You were carrying thousands of carloads on it, were you not?

Mr. MILLER. Let him answer. You will have time enough to ask your question, but let him answer your questions. It is the answers we are after and not your questions.

Q. All right, go ahead.—A. It was information we were trying to cover to the public, as well as showing as a partial—as a matter of information what tariffs would apply—that is, showing that all our tariffs would apply from Chicago.

Q. So that you did not consider it necessary that the public should know about this 6-cent rate?—A. Why, certainly, if they wanted to.

Q. You said this list was given to give the information to the public?—A. Why, certainly——

Q. Well, why didn't you——A. —as a partial list.

Q. Why didn't you put in the 6-cent rate then?—A. Did not consider it necessary.

Q. Why not necessary?—A. Did not consider it necessary to show any of those, as far as that goes.

Q. Why didn't you consider it necessary to put in the 6-cent rate?—A. Oh, we didn't consider it any more necessary than we would to show our G. F. D. 56, which contained a large number of commodity rates.

Q. Why didn't you consider it necessary to put in the 6-cent rate?—A. It was a State tariff—one reason.

Q. Now you say you put this list in so as to give the public
12037 notice of the principal tariffs?—A. And also as a matter of reference.

Q. As a matter of reference for whom?—A. For anybody that might pick up the tariff.

Q. Yes; so they would know what tariffs were applicable?—A. That is, to a certain extent; yes.

Q. Now, the first tariff that you listed here on this list was a class tariff naming 18 cents a hundred pounds on petroleum and its products from Chicago to East St. Louis, wasn't it—tariff No. 24 [handing witness tariff]?—A. As I stated before, that is a committee publication covering both class and commodity rates between Chicago and East St. Louis.

Q. And in this application sheet that is the first tariff you list, isn't it?—A. Chicago & St. Louis Traffic Association, our G. F. D. No. 512 is the first one on the list.

Q. That is the tariff you are talking about, tariff 24?—A. Yes, sir.

Q. Which names an 18-cent class rate on oil from Chicago to East St. Louis, does it not?—A. Not that I would consider, that it names an 18-cent rate on oil.

Q. Does it not name, in connection with the classification, an 18-cent rate on oil from Chicago in carload lots—petroleum oil?—A. You mean with the classification in this tariff alone?

Q. Take this tariff No. 24, the Illinois classification referred
12038 to therein, and the application sheet I. C. C. No. 1203, those documents before you, do they name a rate of 18 cents a hundred from Whiting, Indiana, to East St. Louis?—A. If there was no other tariffs providing for any lower rate, that would be the rate.

Q. That would be the rate; yes. Then those three documents do name that, do they?—A. If there was no others; yes, sir.

Q. And the I. C. C. No. 1203 makes that 18-cent rate applicable to Whiting, does it?—A. If those were the only documents, it would.

Q. Now, what does this mean at the bottom of this I. C. C. No. 1203, just following the list of tariffs referred to therein, in large type: "Subject to the classification and rules provided under the above tariffs?"—A. Why, it means that the classification and rules provided for in connection with these tariffs apply when these tariffs are used.

Q. What do you mean by "these tariffs?"—A. The list of tariffs that are shown here. If any one of those tariffs was used, it means that the classification would apply. The rule and classification in that tariff would apply, being made applicable so far as those tariffs, when they were used, would apply from the suburban points.

Mr. MILLER. Many of those tariffs contain class rates—I mean class tariffs?

WITNESS. Yes, sir.

Mr. MILLER. And some be governed by different classifications?

12039 WITNESS. In other words, it meant that any tariff that was used would be governed by its own rules and regulations.

Mr. MILLER. The classification applied by each and named on it?

WITNESS. Yes, sir.

Q. So that tariff No. 24, used in connection with the Illinois classification, was by this I. C. C. No. 1203 made applicable to Whiting, subject to those rules and classifications?—A. Yes, sir.

Q. Now, you say that it was customary to use the sum of the local rates for through interstate shipments—local rates which were not filed with the Interstate Commerce Commission?—A. Yes, sir.

Q. What roads have you had any experience on where they have done that?—A. The Alton road.

Q. Give me any shipments made on through bills of lading from one State to another where tariffs were used, not filed with the Interstate Commerce Commission, except these oil shipments.—A. I could not give you the name of any particular shipment.

Q. You don't remember any, do you?—A. No particular transaction; no, sir. I know that there have been some.

Q. What?—A. I know that there have been some.

Q. How do you know it if you can't name them?—A. Why, in those days we had them up every day almost.

Q. You did?—A. Yes.

Q. If you had them up every day, you must be able to say where shipments were made from and to what places and under

12040 what tariffs?—A. No; I can't name any particular——

Q. This is not a new subject to you. You have been over this before, haven't you?—A. Yes; but I have never been able to pick out any particular shipment.

Q. You never have been able to find, have you, one single shipment, except this oil shipment, that was made under a through bill of lading on a tariff not filed with the Interstate Commerce Commission?—A. I never found any oil shipments, as far as that is concerned.

Q. These oil shipments were made under through bills of lading, weren't they?—A. I don't know anything about that.

Q. You don't know anything about it?—A. No, sir.

Q. You never have been able to find any shipments, have you, that were made under——A. As I stated before, I would not state what I can find with regard to that.

Q. You have never been able to find one, have you?—A. I never have searched for one.

Q. You never have. This subject has been up, and you have been asked this question before, haven't you?—A. I don't know that I have, exactly in that shape.

Q. Do you keep in your office the rulings of the Interstate Commerce Commission, showing requisitions as to the form and filing of tariffs?—A. To-day we do; yes.

Q. Haven't you for years?—A. Ever since the Commission has issued them in bulletin form, which is a year or two ago.

Q. Do you remember the publication which the Commission issued in 1889 and 1893 and several years thereafter—I will get you
12041 the exact publication—in which they required all local tariffs used for through shipments to be filed with the Commission?—A. No, sir.

Q. You never had that?—A. Oh, I might have had it.

Q. You did not pay any attention to it?—A. No, we didn't.

Q. You didn't consider it worth while to pay any attention to the rulings of the Commission?

Mr. MILLER. I object to that. That was not stated.

A. That I don't know.

Mr. MILLER. I produce now this G. F. D. No. 56 of the Chicago & Alton Railroad——

Mr. KELLOGG. Now wait, Mr. Miller, until I am through, and then we will take up that. I don't want to bring in anything——

Mr. MILLER. Very well. I thought you wanted to get this.

Mr. KELLOGG. I am asking about something else now. Don't break in on that.

Q. When did you commence to file your State tariffs which you used for interstate shipments?—A. That I could not say exactly; possibly along in the latter part of 1905.

Q. After the investigation of the Bureau of Commerce and Labor into your oil shipments?—A. Yes.

Q. Wasn't it?—A. I believe it was—somewhere there.

Q. Your attention was then called to the fact that you were shipping under these 6-cent rates without their being filed?—A. No; I think our legal department said they thought it would be the best thing to file them, so as not to have any question about anything.

12042 Q. Did your conversation with Mr. Brown take up the subject of these oil rates that had not been filed with the Commission, which you testified to the other day?—A. Particularly the oil tariffs?

Q. Yes.—A. Why, no; not particularly the oil tariffs—just a general proposition in regard to State tariffs.

Q. Did you discuss the oil tariffs?—A. Not in particular; no.

Q. You did not?—A. Not that I recollect.

Q. Do you have a file of correspondence in connection with these billing orders in your office?—A. We generally have papers with

each billing order, as far as that goes; that is, anything that might be authority for the issue, where there was any correspondence conducted.

Q. Yes. That would be kept in the same file with the billing order, wouldn't it?—A. Usually.

Q. Any memoranda pertaining to the billing order would be kept in the same file, wouldn't they?—A. As a usual proposition; yes.

Q. Did you have any correspondence in relation to this billing order issued or bearing date January 1, 1903, Petitioner's Exhibits 552 or 553 or 554?—A. Correspondence?

Q. Yes.—A. No, sir.

Q. Have you made search?—A. As I stated before, I had the original copy in my hands.

Q. Have you made any search in your files to see if there was any correspondence with anybody?—A. At that time?

Q. At what time?—A. At the time I had the original copy.

Q. At the time you had the original copy?—A. Yes.

12043 Q. That was in 1907, wasn't it?—A. I don't know just exactly the date. It was somewhere along either before or after the Alton trial.

Q. Were there any memoranda in that file pertaining to these tariffs other than what you have named?—A. No, sir.

Q. None whatever?—A. No, sir.

Q. You made search for them, did you?—A. I had the original papers.

Q. Was there any correspondence with Mr. Bogardus, or any official of the Standard Oil or agent of the Standard Oil?—A. No, sir; none whatever.

Q. Any memorandums of conversations about it?—A. No, sir.

Q. Have you searched that file to see whether you returned that original tariff about which you were testifying yesterday?—A. Have I searched the files?

Q. Yes.—A. Well, I know it didn't go back into the file.

Q. You know it didn't?—A. No.

Q. Have you made any search to find it lately?—A. No; I have not. I thought it was all done. Buried by this time.

Q. Will you do so now?—A. Why, I don't think it will do any good, because I would not know where to look for it now.

Q. Did you give it to the counsel for the Standard Oil Company, any of them?—A. No; I did not.

Q. You did not?—A. No. The only person that I know of that ever had it was Mr. Wilkerson, the Government counsel in Chicago, or Mr. Sims. It was in his office.

Q. Did you give it to them—either one of them?—A.

12044 They had it in their hands. They did not keep it that I know of.

Q. They did not?—A. No.

Q. They gave it back to you?—A. As I recollect it.

Q. Do you know the rate at which this oil was waybilled during 1903, '4, and '5?—A. I do not.

Q. You had nothing to do with it?—A. Personally—no, sir.

Q. Or the bills of lading?—A. No, sir.

Mr. KELLOGG. Now, Mr. Miller, where is the tariff that you were going to produce?

(Paper handed to Mr. Kellogg by Mr. Miller.)

Q. G. F. D. No. 56, which you referred to a few moments ago, contains the following clause, doesn't it: "The rates named in this tariff apply only from and to the stations specifically mentioned, and do not include switching charges or any other terminal expense except as provided herein," does it not [handing paper to witness]?—A. It has that clause in it; yes, sir.

Q. Now that clause is notice, right on the face of the tariff, that it would not be made applicable, and that you were not absorbing switching charges to Chicago switching points, isn't it?—A. It has some items in it which show that it will absorb switching.

Q. Very well, but that rule prevents it except where otherwise specifically stated, doesn't it?—A. Not necessarily, as far as Chicago goes.

Q. Isn't that right on its face a sufficient reason for not listing it in that list?—A. No, sir; it is not.

12045 Q. Why not?—A. For the reason that it might be applied as well in the Chicago switching district as otherwise. The switching district of Chicago was entirely different from any other switching district.

Q. Was it actually applied at all?—A. I should say it was.

Q. This tariff?—A. Yes, sir.

Q. Actually applied to Whiting?—A. Yes, sir.

Q. In what rates?—A. Some oil rates in there.

Q. But they state on their face that they are Whiting rates, don't they, from Whiting, Indiana?—A. It says it will include the switching from Whiting.

Q. Well, where they don't state on their face, none of those tariffs would apply to Whiting, would they?—A. There is nothing else there that would apply on oil from Whiting, I guess.

Redirect examination by Mr. MILLER:

Q. You say that the application sheet, I. C. C. 1203, contained a list of the important tariffs, and also you said that the list was for the most part association tariffs. They were large tariffs, were they not, covering usually a very large number of commodities and a very large number of points?—A. Yes, sir.

Q. Were any of the three hundred or more Chicago-East St. Louis commodity tariffs listed there?—A. No, sir.

Q. Those that you issued, you say, each year to the number of—A. None of the special commodity rates from Chicago to East St. Louis were listed.

12046 Mr. KELLOGG. Wait a moment. I don't understand you to testify that there were three hundred or more Chicago-East St. Louis rates.

Q. Well, commodity rates, tariffs on a commodity that were included in your numbers of commodity tariffs from Chicago to points in Illinois.

Mr. KELLOGG. That is different.

Q. Including East St. Louis. None of those are listed there?—A. None at all, no, sir.

Q. But still they were used and applied under that application sheet, were they?—A. They were.

Q. For all the commodities in those commodity tariffs?—A. They were.

Q. And for all the shippers, as testified upon your direct examination?—A. Yes, sir.

Q. Was there listed or put into the list on 1203 any unfiled tariff or tariffs—I mean tariffs not filed with the Interstate Commerce Commission? For instance, there appears on this list in the application sheet tariff, I. C. C. 1203, G. F. D. 2610, containing no I. C. C. number, being the second in the list there. Was that tariff filed with the Interstate Commerce Commission [handing tariff to witness]?—A. It was not.

Q. What sort of a tariff was that—a large tariff?—A. No; it was just simply a local tariff, applying rates from Chicago.

Q. It was not confined to one commodity?—A. No, sir.

12047 Q. It covered a large number of commodities?—A. It was a class tariff.

Q. A class tariff?—A. Yes.

Q. Covering all classes?—A. All classes, to stations in Illinois.

Q. From Chicago to stations in Illinois?—A. Yes, sir.

Q. And that is listed there, is it?—A. Yes, sir; it is.

Q. And was not filed with the Interstate Commerce Commission?—A. No, sir.

Q. And were the rates in that tariff on the commodities—or covered in the classes named on the tariff, so far as those rates remained in force—applied to Indiana points in the Chicago switching district, under that application sheet?—A. Wherever the rates would govern; wherever there was no commodity rate less, those rates would apply.

Q. And were applied in practice?—A. Yes, sir; to all.

Q. To all the shipping points named on your application sheets 1203 and the succeeding application sheet, I. C. C. No. 1407?—A. Yes, sir.

Q. Now, so far as you know, was there any criticism or complaint on the part of the Interstate Commerce Commission to your roads applying under that application sheet to shipments from points in Indiana named thereon, the rates named in that tariff?—A. I don't recollect that we ever got any information or any letter or correspondence from the Interstate Commerce Commission at all in regard to that State tariff or any State tariff.

Q. You don't know of your road being pursued by any criminal prosecutions or otherwise for applying the rates named in
12048 that unfiled tariff to Indiana points named in I. C. C. No. 1203?—A. No, sir.

Q. Now, would this application sheet, I. C. C. 1203, apply the rates named in any of the tariffs contained in that list, or rather rates named as class rates in any of the tariffs named in this list—would it apply that class rate, provided there was, with respect to a particular commodity, a subsequent commodity rate?

Mr. KELLOGG. That is objected to as a conclusion of law. The tariff is the best evidence of what it applied.

Q. Take a certain commodity, say, which in one of the class tariffs contained in that list came under a class or a class rate, and suppose afterward, after the class tariff became effective, your road made a commodity tariff on that commodity, naming a less rate than the class rate from Chicago, then under this application sheet would that class rate longer apply?

Mr. KELLOGG. That is objected to as a conclusion of the witness on a legal question, the tariffs being the best evidence whether they applied or not.

A. No, sir.

Q. Now, tariff 24, which Mr. Kellogg has referred to, which is in evidence, is it not——

Mr. KELLOGG. Yes.

Q. ——contains, as you perhaps remember, a list of 150 commodities and groups of commodities, taking commodity rates, and then rates under a number of classes named on the tariff; and you
12049 may assume that petroleum and its products come under class 5 of that tariff, the tariff naming a rate from Chicago to East St. Louis of 18 cents for commodities listed or included in class 5. Now, when after that your railway company established a rate of 6 cents from Chicago to East St. Louis on petroleum and its products, would this application sheet any longer apply to Whiting the 18-cent rate?

Mr. KELLOGG. That is objected to as calling for a conclusion of the witness, the tariff being the best evidence, and also as calling for a conclusion of law.

A. The commodity rate would take the preference over the class rate and practically take it out of the classification. It would not apply.

Q. Then, when this application tariff, I. C. C. 1203, states that between Whiting and the other points in the Chicago switching district named on it, by the respective routes named on it, the Chicago & Alton Railway stations in Illinois and Missouri, and points in Kansas, Nebraska, Colorado, etc., the same rates will apply as apply between Chicago, Illinois, and stations on the C. & A. Railway in Illinois and Missouri, does that mean that the existing actual rates between Chicago and East St. Louis, say, would apply, or some old class rate that had been superseded by the later commodity rate?

Mr. KELLOGG. That is objected to as not containing a correct statement of the evidence or the facts, as calling for a conclusion of the witness on a legal question, and as incompetent and immaterial.

A. You would always apply the commodity rate where it
12050 was lower than any class rate.

Q. The current existing commodity rate?—A. Yes, sir.

Q. When you established a later lower existing commodity rate, for instance, when your road established a rate of 6 cents between Chicago and East St. Louis, was there any longer an 18-cent rate applicable to that commodity?

Mr. KELLOGG. Same objection.

A. The rate of 6 cents was the only rate then.

Q. Precisely so. Then there was no longer any 18-cent rate from Chicago to East St. Louis to apply to Whiting after you established the tariffs naming a 6-cent rate, was there?

Mr. KELLOGG. That is objected to as calling for a conclusion of the witness, and leading.

Q. Answer the question.—A. There was not.

Q. The application sheet would not make applicable a nonexisting rate, in other words?—A. No, sir.

Q. Although under the tariff listed on there there were named such a rate, superseded, however, in fact, by some later tariff?

Mr. KELLOGG. Same objection.

A. I did not catch the——

Q. Did you understand me?—A. No; I did not.

Q. I say, the application sheet would not apply the superseded rate, although such rate had been originally named in one of the tariffs listed in the application sheet?—A. It certainly would not.

Q. Now, Mr. Hollands, I think you stated yesterday upon
12051 cross-examination that you did not tell Mr. Bogardus that the billing sheets or commodity tariffs naming a rate of 6 cents per hundred pounds from Chicago to East St. Louis were filed with the Interstate Commerce Commission, and you did not recollect of telling him that the rate of 6 cents was a filed rate. Supposing in December, 1902, or at any time between that, say, and March, 1905, Bogardus or anybody else had asked you whether the 6-cent rate from Chicago to East St. Louis, or the rate of 6 cents from Whiting to East St. Louis, were a filed rate, what would you have said to him?

Mr. KELLOGG. One moment. That is objected to as incompetent and immaterial, calling for what the witness would have said if some state of facts had existed which never did exist.

Mr. MILLER. Oh, yes, they existed.

A. I would have stated that under my understanding the rate would be filed with the Interstate Commerce Commission under the application sheet.

Q. That is, the rate of 6 cents per hundred pounds from Whiting to East St. Louis under the application sheet and the existence of the commodity tariff, was a filed rate?—A. Yes, sir.

Q. And you so regarded it, did you?—A. Yes, sir.

Q. Now, if any shipper desiring to ship petroleum or its products in carload lots from Whiting to East St. Louis during that period of time had asked you for the lawful rate, what would you have quoted to him?

Mr. KELLOGG. Same objection.

12052 A. 6 cents a hundred pounds.

Q. Chappell, on your road, contained merely an interlocking switch tower, did it not, with agent and clerks upstairs on the second floor?—A. It did.

Q. And the freight received at Chappell was altogether carload freight from connecting lines, was it not?—A. It was all connecting line freight.

Q. I suppose, in sending these commodity tariffs, Petitioner's Exhibits 552, 553, and 554, or one or more of them to Mr. Bogardus, the traffic agent of the Standard Oil—well, you may answer why that should be done.—A. Because he was interested in the rate.

Q. Represented a very large shipper?—A. Yes, sir.

Q. Did you know of anybody else, any other large shipper of oil from Chicago in carload lots, such as that tariff applied to?—A. I don't know of any other concern at all, or shipper, that would have any use for it.

Q. In distributing that tariff among your own agents or offices, what was the fact with reference to its being distributed or sent to all the persons that would have to do with that rate under that tariff?

Mr. KELLOGG. That is objected to because the distribution sheets show just exactly to whom the tariffs were sent, and what their duties were.

Mr. MILLER. Yes, I know it.

A. The auditor was the only one interested, outside of the shipper.

12053 Q. Now, in distributing or sending commodity tariffs generally to people outside of your own offices what was the practice as to whom you should send them to?—A. We always aimed to send them to those who were interested.

Q. That is, people that were shippers?—A. And outside of that we did not try to go any further.

Q. It was a matter of business policy in getting business, I suppose, to send them to shippers that you expected business from?—A. Certainly, certainly.

Q. Now, in distributing tariffs among your own agents, what was the practice with respect to the different kinds of tariffs in distributing them? Take a tariff on a single commodity, and applying in car-load lots, or applying with settlements through the auditor's office, as compared, perhaps, with tariffs having a large number of commodities or classes of commodities, what would be the difference in the practice of your railway company in the distribution of those respective tariffs among your agents or officers?—A. I don't know as I quite catch your point.

Q. Well, as between a tariff on a single commodity, I say, and a tariff on a thousand commodities——A. It was limited——

Q. —and a tariff applying from one point to another point——A. I see what you mean.

Q. —and a tariff applying to a thousand points, what would be the difference in your practice in the distributing among your
12054 agents of those respective kinds of tariffs?—A. Distributed only to those interested and no further.

Q. That is, you did not make a practice of getting out and sending around uselessly hundreds or thousands of copies of your tariffs?—A. No, sir. It was work enough as it was.

Q. And expense enough, I suppose?—A. Yes, sir.

Q. The matter of getting out tariffs and handling them and disposing of them, how is that with respect to being a matter of great or little expense or trouble or work?—A. It is the worst proposition we have got to contend with in the office.

Q. It is a matter of great difficulty?—A. Yes, sir.

Q. And intricacy?—A. Yes, sir.

Q. And work and expense?—A. Yes, sir.

Q. State what the fact was as to whether, say, prior to three years ago, there would be apparently in existence—that is, uncanceled—tariffs over the same route, applying to the same commodity, which would name different rates?

Mr. KELLOGG. Objected to as incompetent and immaterial unless he can name the tariffs, the tariffs being the best evidence of the existence of such rates.

A. There were a number of cases where there were conflicting rates—that is, one higher on the same commodity as against another one lower. The lower rate was always used in every instance.

Q. Unless by inadvertence?—A. Why, that was the only way it——

Q. How would that happen, that there would be that state
12055 of facts?—A. There are so many tariffs issued every day, it is hard to keep track of them. Even to-day we run up against it.

Q. What is the fact about the science of making and simplifying and harmonizing and getting complete tariffs during the years since you have been in the railroad business? Has it been a growing difficult matter to overcome?—A. It is a very difficult matter to overcome. We are endeavoring every day to straighten out our tariffs.

Q. Now, when you found, as you say occurred at times, the existence apparently of two conflicting or inconsistent rates named in tariffs, what did you do about it?—A. We always amended the tariff, cancelling the higher rates and allowing the lower rate to govern.

Q. Do you remember anything about what was done with respect to the 10-cent and 6-cent rate on petroleum and its products from Chicago to East St. Louis?—A. I believe that was brought out yesterday; that the 10-cent rate was canceled.

12056 Q. How did it happen there was a 10-cent rate and a 6-cent rate apparently in effect at the same time? What did you learn about that?—A. Our attention was called to the two rates, and we immediately arranged to cancel the 10-cent rate.

Q. Did you know it before, or had it escaped attention?—A. It just simply escaped attention, that is all, in issuing the separate commodity tariff.

Q. The 10-cent tariff covered other commodities?—A. A large number of commodities.

Q. A large number of other commodities while the 6-cent rate was a commodity tariff on that particular commodity?—A. Yes, sir.

Mr. KELLOGG. You do not mean to say the 10-cent rate was not a commodity tariff?

WITNESS. Which?

Mr. KELLOGG. The 10-cent rate was a commodity tariff on oil?

WITNESS. Yes.

Mr. KELLOGG. Mr. Miller's question would imply to the contrary.

Q. But it was included in a tariff naming rates on a very large number of commodities?—A. Yes, sir; it was one of many other commodities in the same tariff.

Q. And both were tariffs naming rates between points in Illinois?—A. Yes, sir.

Q. On their face. From Chicago to East St. Louis, or perhaps 10525 named rates from Chicago to a number of points in Illinois?—A. Yes, sir.

12057 Q. And points outside of Chicago, from one point in Illinois to another?—A. Well, under the application sheet the——

Q. No, no; but did G. F. D. 10525 name rates from one point outside of Chicago——

Mr. KELLOGG. That is in evidence, Mr. Miller.

Mr. MILLER. I didn't know it.

Mr. KELLOGG. Yes; that is in evidence; the whole tariff.

Q. You were asked yesterday upon cross-examination about tariffs providing that collection should be made through the auditor's office. What was the fact as to the practice of collecting freight through the auditor's office? Was it confined to petroleum, or how was it with respect to the handling of the freight collections in your office?

Mr. KELLOGG. Do you know anything about the collection?

Mr. MILLER. He may know what the practice was. I asked him if he knows.

A. Under our issues which provide for collection through the auditor's office, that is all I know about it.

Mr. KELLOGG. That is what I thought.

Q. That was not confined to petroleum alone?—A. No, sir; there were other issues showing collection.

Mr. KELLOGG. You mean the ones you testified to yesterday?

WITNESS. Yes.

Q. Does your office quote rates?—A. Yes, sir.

Q. Did you testify yesterday that the clerk known as a rate clerk was a clerk in your office, in the general freight department?—A. Yes, sir.

12058 Q. Does he have anything to do with quoting rates?—A. Oh, yes; altogether.

Q. He is quoting rates all the time?—A. Practically all he does is simply quoting rates either by letter or 'phone.

Q. People ask for rates by letter and by 'phone?—A. Yes, sir.

Q. And by personal interview?—A. Yes, sir.

Q. And the rate clerk quotes the rates in response to people so asking?—A. Yes, sir.

Q. That is his business, is it?—A. Yes, sir.

Q. How extensive is the work on the part of the rate clerk in the office of the general freight department in quoting rates? Is it occasional or continuous?—A. It keeps one man busy all day long, besides assistants.

Q. Where has been your office—I mean the office where this work has been done by you and the rate clerk, and the people there in the general freight office for the last four years? The central part of the town in Chicago?—A. Yes, sir.

Q. The business district?—A. Yes, sir.

Q. Convenient to people who would want to know rates?—A. Yes. It was always convenient.

Q. A good deal more convenient, is it not, than the local freight agent's office?—A. Very much so.

Q. Which is at the station. And did that rate clerk have these tariffs marked "billing sheets, Government's Exhibits 552, 553, and 554," namely, the 6-cent commodity tariff from Chicago to East St. Louis——A. He did.

12059 Q. —in his office all the time?—A. He did.

Q. With the other tariffs?—A. Yes, sir.

Q. You spoke of keeping the rules of the Interstate Commerce Commission since they began issuing them in bulletin form. That covers what period of time approximately?—A. Since the Hepburn law.

Q. Prior to that time that was not the practice?—A. We did not make reference to them at any time.

Q. When did they issue them in that form? What you referred to was a period of time since the passage of the Hepburn Act in 1906?—A. Yes, sir. If there were any rules prior to that time we never made any reference to them.

Q. Referring to Tariff G. F. D. No. 56 of your railroad, I ask you whether, with the minimum named in your application sheet, under application sheets issued after that tariff and in force, any of the rates named in there would apply from Whiting, between Whiting and points therein named?

Mr. KELLOGG. Same objection. You assume that tariff to be listed on the application sheet, do you?

Mr. MILLER. No; the tariff is not listed on the application sheet. I had more in mind the restrictive clause.

Mr. KELLOGG. It would not apply unless it was listed. I wanted to understand that. I understood him to say it would apply if listed. But if it was not listed the clause in there says it will not apply except where it is shown on the tariff that it does apply from other stations.

Mr. MILLER. What I meant is, whether under the application sheet issued after this tariff, the rates herein named as
12060 applicable from Chicago to other points named hereon would be applicable to Whiting, and whether rates from other points than Chicago to Chicago would be applicable on deliveries to Whiting. That is my question.

Mr. KELLOGG. Whether listed or not?

Mr. MILLER. What do you mean by whether listed or not?

Mr. KELLOGG. In the application sheet.

Mr. MILLER. Yes. You mean whether the tariffs are listed or not. This tariff is not listed on the application sheet. I mean whether under the application sheet those tariff rates would apply to Whiting.

A. Where the rate shown in here is over 6 cents a hundred pounds, the rate would be applied from Whiting, Indiana, on any of the suburban stations.

Mr. KELLOGG. Whether it is listed in this or not?

WITNESS. Yes, sir.

Q. 6 cents being the minimum named on the application sheet?—A. Yes, sir.

Mr. KELLOGG. Or whether it was filed with the Commission or not?

WITNESS. Yes, sir. It was the general practice to apply every tariff naming rates from Chicago from Whiting, Indiana.

Q. And so I ask you whether the rates named in G. F. D. 10525, which were in existence from Chicago, whether under the application sheet, either 1203 or 1407, as one or the other was in force—I think 1407 perhaps—the rates named in G. F. D., 10525, the existing rates in effect at the time of the shipment, would apply to shipments from Whiting.

12061 Mr. KELLOGG. Same objection.

A. They did.

Recross-examination by Mr. KELLOGG:

Q. What does this clause mean in Tariff 56: "The rates named in this tariff apply only from and to stations specifically mentioned?"—A. That means it does not apply on the long and short haul clause in Illinois.

Q. Is there anything here about the long and short haul clause in Illinois?—A. No.

Q. Is there anything in that about the long and short haul clause at all?—A. It does not say anything there.

Q. Doesn't it mean that the rates will only apply to stations named, just what it says?—A. It means that it will not apply as a maximum rate between two stations.

Q. Doesn't it mean exactly what it says, that it will not apply except to stations named?—A. As when applied with that particular tariff only.

Q. Then what does the rest mean: "Do not include switching charges or any other terminal expense, except as provided herein?"—A. Where another tariff makes the provision that it will apply, the tariff applies.

Q. In the absence of an application sheet overruling that, that tariff could not be made applicable to Whiting, could it, on account of that clause? Tariff 56 standing alone would not be applicable to Whiting, would it?—A. Why, it says some of these rates that apply from Whiting——

Q. I mean except where the rates themselves are from Whiting?—A. Not without the application sheet; no.

12062 Q. Now, let us get at that. Tariff 56 standing alone would not make Chicago rates applicable to Whiting, would it?—A. No, sir.

Q. Because it shows on its face——A. Except rates that are shown in there.

Q. Chicago rates are not Whiting rates, are they?—A. It shows here that it includes.

Q. You don't misunderstand me, I think.

Mr. MILLER. He wants to state it accurately, that is all.

Mr. KELLOGG. No, he doesn't.

WITNESS. I think I understand your question.

Q. Except where there are exceptions in the tariff itself, the tariff from Chicago, Tariff 56, does not apply to Whiting?

Mr. MILLER. In the absence of the application sheet?

Mr. KELLOGG. Yes, sir.

A. Except as stated in the tariff, yes, sir.

Q. Then that rate reading from Chicago to East St. Louis under this Tariff 56, standing alone, would not apply to Whiting, would it?—A. With the exception as I stated before.

Q. What exception?—A. Where it is shown there.

Q. But if it reads from Chicago to Whiting it has no exception, has it? Where rates are named in Tariff 56 from Chicago, not Whiting, but from Chicago to Whiting, and are not on that tariff expressly made applicable to Whiting, they would not apply to Whiting, would they?—A. Summit, Illinois, is practically the same thing as Chicago.

Q. Well, what about it?—A. The rate here is from Summit, Illinois, which includes certain switching from Whiting.

12063 Q. Well, it says so, doesn't it, on its face?—A. Yes.

Q. Tariff 56 does not apply to Whiting except where in the tariff it is definitely stated that it will?—A. In itself, no.

Q. Very well. Why doesn't it?

Mr. MILLER. It wouldn't anyway, would it?

Q. Why doesn't it?—A. Why, it simply says it is from Chicago.

Q. Doesn't it say, also, that it shall only apply between stations named in the tariff?—A. And will not apply to intermediate points.

Q. Well, does it say that?—A. No; but that is the intent of the tariff.

Q. Very well; but it says it will not apply except to stations named in the tariff, doesn't it?—A. That is as it reads there.

Q. Yes, sir. That means that it will not apply to Whiting; one of the meanings at least is, it will not apply to Whiting unless it is so applied on the face of it?—A. Not necessarily. The tariff itself, as it stands, would not apply from Whiting unless there was something——

Mr. MILLER. It would not need that so far as Whiting was concerned.

Q. That clause makes it clear it would not apply unless it so states on its face, doesn't it?—A. I don't quite catch your question.

Q. Oh, you understand it perfectly, I think.

Mr. MILLER. Does that clause add anything, so far as
12064 Whiting is concerned, to the clearness of it?

WITNESS. No.

Mr. MILLER. Tariff 24 would not apply to Whiting without an application sheet, would it?

WITNESS. Not at all. If the application sheet had not been there none of those rates would have applied, as specifically provided in the tariff.

Q. Suppose this was the last issue, this Tariff 56, that the road had put out at all. Would that rate apply to Whiting unless it shows on its face?—A. No, sir.

Q. It would not?—A. If that stood alone.

Q. Then it needs a subsequent application sheet to make it applicable to Whiting, doesn't it?

Mr. MILLER. Now, the question is——

Mr. KELLOGG. Now, wait a moment, Mr. Miller.

Q. It needs a subsequent application sheet to make it applicable to Whiting, doesn't it?—A. Not necessarily subsequent.

Q. You said if this was the last issue it would not apply to Whiting.—A. I am talking about that sheet alone, now.

Q. Yes, sir.—A. Without the application sheet.

Q. Yes, sir. Suppose this was the last issue?—A. And no application sheet?

Q. No application sheet thereafter made?

Mr. MILLER. But one issued already, before?

Mr. KELLOGG. Yes.

A. Why, then it would apply, yes; certainly.

Mr. MILLER. If Mr. Kellogg would make his question complete he would get a completer answer.

12065 Mr. KELLOGG. He understands it all right.

WITNESS. Not at all. I want to get your question clear, so I can answer it properly.

Q. Now, you say you never received issues of the regulations, documents governing the issuance of tariffs, prior to the Hepburn Act?—A. None ever came in the office while I was there.

Q. I show you a letter of September 4, 1901, in which the auditor wrote to Mr. Wann: "As requested, I send you under separate cover copies of various documents governing the issuing and filing of rate schedules." Do you say they were not received?—A. I just stated there wasn't anything came in while I was there.

Q. You do not say that they did not come in before you were there?—A. I said I presumed there were some copies in the office.

Mr. MILLER. I object to and move to strike out the witness' presumption.

WITNESS. I do not recall of ever seeing any.

Q. Did you ever look for any?—A. No; I did not.

Q. Now, you say that the 6-cent rate which was not filed with the Commission would apply from Whiting although there was a higher published tariff rate filed with the Commission which applied from Whiting?—A. The lowest rate would apply, and the 6-cent rate was the lowest rate.

Q. Whether it was filed with the Commission or not?—A. Yes, sir.

Q. Now, what rate would you have quoted, then, in 1902,
12066 when you did not have any 6-cent rate?

Mr. MILLER. I object to that.

A. Why, the lowest rate that we had in our tariff.

Q. What was it?—A. I could not say without going into it.

Q. Why, you know the tariffs are in evidence, and you looked them over yesterday.—A. Well, now, I don't——

Q. The 10-cent rate in evidence, wasn't it?—A. That is my impression, but that is just what I meant. I am not sure whether that was there or not.

Q. You knew of Tariff 24 naming a class rate, didn't you?—A. Yes, sir.

Q. You knew of the tariff naming the 10-cent rate that was in existence in 1902?—A. That is as I recollect it. I was just trying to recall.

Q. Now, in 1902 what rate would you have quoted from Whiting?—A. 10 cents; that was the rate.

Q. The stuff was actually shipped at 6 cents, wasn't it—A. I don't know anything about it.

Q. Well, assume it was.—A. I am not trying to assume anything.

Q. The evidence shows it was. Then you would have quoted a 10-cent rate, would you?—A. If that was the tariff.

Q. But you know there was not any 6-cent tariff; you swore to it yesterday, didn't you?

Mr. MILLER. No, he did not refer to it yesterday.

A. No, I did not.

Q. Do you want to take that back now?

Mr. MILLER. I object to that.

12067 Q. Do you want to testify now there was a 6-cent rate?

Mr. MILLER. I object to that.

A. I didn't say anything of the kind at all.

Q. You said you investigated and said there was no 6-cent rate.—A. No; I said I could not find any 6-cent rate.

Mr. MILLER. I would like to object to counsel's statement to the witness as inaccurate, and I think before counsel is insolent to the witness he ought at least to be accurate in his statement.

Mr. KELLOGG. I am not insolent to the witness.

Mr. MILLER. The witness did not say so.

Q. What did you state yesterday and what do you now state as to the existence of that 6-cent rate in 1902?—A. I stated yesterday that I had looked for the tariff naming 6 cents in 1902, and I did not find it.

Q. And you inquired, did you?—A. No.

Q. Didn't you talk with the auditor?—A. No, sir.

Q. Never talked with anybody else in the office?—A. Not at that time.

Q. Did you afterwards?—A. After, during this trial, or during the Alton trial, I had some talk.

Q. Were you informed that there was not a 6-cent tariff in 1902?

Mr. MILLER. I object to that as hearsay and incompetent, too general, and indefinite.

Q. Answer the question.—A. As far as that goes, Mr. Kellogg, I was informed that during 1903, 1904, and 1905 we had no tariff in the auditor's office.

12068 Q. Who informed you that?

Mr. MILLER. I object to that for the same reasons.

A. As I recollect it, Mr. Howard.

Q. Who is Mr. Howard?—A. Mr. Howard was then chief clerk of freight accounts.

Q. Whom else did you inquire of?—A. That is all I know of. I didn't inquire at all; it was just simply——

Q. Were you informed that there was none in 1902?—A. In connection with the others. Now, it was no specific statement, as far as that goes.

Q. What did you mean yesterday when you said there was none in 1902?

Mr. MILLER. He didn't say so. I object to that.

Mr. KELLOGG. I want to find out what he did say. What he said is in the record, Mr. Miller.

Mr. MILLER. Yes; I know.

A. I have already said, Mr. Kellogg, that I looked for the billing order, or commodity tariff as you might call it, in 1902, and did not find it.

Q. Yet you found one for 1903.—A. Because I issued it.

Q. Well, you knew when Mr. Howard told you there wasn't one in 1903 that that was not true, didn't you, that he was mistaken?—A. Why, certainly.

Q. Did you talk with the auditor about this?—A. Not that I recollect.

Q. You never talked with him?—A. Not that I recollect of.

12069 Q. Did you talk with Mr. Wann about it?—A. Not specifically.

Q. Never talked with him about this tariff of 1902 at all?—A. Not that I recollect.

Q. Never talked with him about the one of 1903 or 1904?—A. I have already stated the 1903 was issued on his instructions.

Q. You found no distribution sheet of any tariff in 1902, did you, naming a 6-cent rate on oil?—A. I don't know that I ever looked for it.

Q. You never looked for it?—A. I don't know that I ever did. Without the tariff I would not be able to find the distribution sheet.

Q. You would not?—A. No.

Q. And without the tariff you could not quote anybody a 6-cent rate, could you?—A. Not very well. If I did not have the tariff I would not quote it.

Q. Did you mean to testify in response to Mr. Miller that you had three hundred commodity tariffs between Chicago and East St. Louis?—A. Why, no; there were not three hundred commodity tariffs between Chicago and East St. Louis; there might have been over three hundred commodity rates.

Q. Oh, you mean named in one tariff, perhaps?—A. Not necessarily.

Q. How many commodity tariffs were there between Chicago and East St. Louis?—A. Taking them all together?

Q. Yes, separate tariffs.—A. Oh, there might have been a dozen or more.

12070 Q. Including billing orders?—A. Including all commodity tariffs, anything that named a rate between Chicago and East St. Louis.

Q. In response to Mr. Miller, you said if Mr. Bogardus had asked you you would have told him that under your understanding the 6-cent billing order, in connection with the application sheet, made a rate filed with the Commission. Is that correct?—A. Yes, sir. The filing of the application sheet in my estimation at that time was the filing of the rate. The application sheet said that any rate from Chicago would apply from Whiting. That is why the application sheet was issued.

Mr. MILLER. That was why it was filed?

WITNESS. Yes, sir.

Mr. KELLOGG. Wait a moment now. I am cross-examining this witness.

Q. If a man had the application sheet he could not find the 6-cent rate in it, could he?—A. No; and he could not find a whole lot of other rates in it, either.

Q. Just answer my question, please.—A. I have.

Q. He would not find the 6-cent rate by looking at the application sheet, would he?—A. I have answered that.

Q. If he went to the Interstate Commerce Commission and was handed that application sheet, he could not there in the Interstate Commerce Commission office find any 6-cent rate, could he?

Mr. MILLER. I object to that on the ground that a shipper is under no sort of obligation to go to the Interstate Commerce Commission to find a rate, and that with the millions of tariffs there filed,

12071 amounting to over a hundred thousand per year, exclusive of amendments and supplements, it would be absolutely impossible, at any rate impracticable, for him to find the rate in the Interstate Commerce Commission if he tried; but that is not contemplated by the law; that is not the purpose of filing papers with the Interstate Commerce Commission. It is to give the Interstate Commerce Commission jurisdiction of the rate.

Q. Now, will you answer the question?—A. I don't know anything about what the Interstate Commerce Commission could do.

Q. You don't know anything about what the Interstate Commerce Commission could find?—A. No, sir. They certainly did find as far as that goes, after investigation, what the rate was.

Q. They had to come to your office and demand the rates to find it; didn't they? They didn't find it in the Interstate Commerce Commission office, did they?—A. I don't know. I think they did.

Q. You think they did?—A. Yes. I think a copy was sent to them.

Q. Please state how they would find it.—A. I don't know how they would find it.

Q. You can't tell any way from that application sheet that they could find it, can you?—A. I don't know anything about what they could do.

Q. You don't?—A. No, sir.

Q. And if you were in the Interstate Commerce Commission office and had that application sheet, how would you find the 6-cent rate?—A. I don't know anything about what I could do in the Interstate Commerce Commission's office.

12072 Q. So, if you were in the Interstate Commerce Commission's office and that was handed to you, you don't know anything about how you would find the 6-cent rate?—A. I don't know anything about what tariffs they have got there, or how they would go at it.

Q. That is not what I asked you. I asked you if you had that tariff sheet alone in the Interstate Commerce Commission's office, how you would find a 6-cent rate?—A. I have already told you I don't know anything about getting a tariff rate there.

Q. You say you don't know of any other shippers of oil from Whiting but the Standard Oil Company?—A. I did.

Q. Do you know anything about shipments made over your road anyhow?—A. Oh, as a general proposition, not specifically.

Q. What you know about it is what the tariffs provide for, isn't it?—A. Not necessarily.

Q. You don't keep track of the shippers, do you?—A. To a certain extent.

Q. Do you keep track of the shipments?—A. Not necessarily.

Q. Do you know how they are billed?—A. In a general way.

Q. You keep track of them, do you?—A. Not specifically; no.

Q. Not specifically; do you in a general way?—A. Oh, I have a general idea of what is going on in regard to the movement.

Q. All right; tell us in a general way how the shipments from Whiting were billed.—A. I don't know anything about that.

Q. Oh, you don't know anything about that in a general way?—A. Just how they were billed.

Q. Oh, you don't?—A. No, sir. I said in a general way
12073 how the business was handled.

Q. Now, tell us in a general way how it was handled.—A. I probably have not made myself clear.

Q. No.—A. The general information that I get is of business moving over the line, not as to the way it is waybilled, or how it is handled physically on the line; I don't know anything about that.

Q. Do you know that there were not other oil shippers from Chicago, wholesalers?—A. I never heard of a shipment moving from Chicago; I never heard of any other oil shipper offering a shipment from Chicago.

Q. To any point?—A. From Chicago, I said.

Q. Don't you know that there are thousands of shipments of oil from Chicago to various points, besides the Standard oil?—A. No; there are not, that I know of.

Q. You don't know anything about that?—A. No, sir.

Q. And you say you never heard there ever was a shipment made out of Chicago except that made by the Standard Oil Company?—A. That is what I said.

Q. Do you think there never were any shipments made, from the general information that you have?—A. Yes, sir.

Q. You do?—A. Yes, sir.

Q. Where did the people west of Chicago who bought oil of independent oil shippers get it? Do you have any idea?—A. They did not reship it from Chicago, in my estimation.

Q. How do you know?—A. Because the rates generally make on the river when they went west.

Q. Generally made on the river?—A. Yes; I am talking
12074 from the Alton road; I am not talking from other roads.

Q. You mean their shipments from eastern points were to Chicago and through on through bills or something?—A. Yes; that is, the rate to any point west of the Mississippi River is made generally on the Mississippi River.

Mr. MILLER. From the eastern points?

WITNESS. Yes. That is, as far as the Alton goes. Taking the other roads, such as the northern lines, the rate might make on Chicago, but the shipment would be from the east, not from Chicago proper.

Q. There was not any prorating on the northern lines and the shipments had to be made to Chicago locally, and then from Chicago locally on local tariffs, or didn't they?—A. I was talking of oil shipments from Chicago proper.

Q. Originating in Chicago?—A. Originating in Chicago; yes, sir.

Q. There is not any oil manufactured in Chicago outside of Whiting, is there?—A. Not as I understand it.

Q. But there were shipments from eastern points to Chicago, and then reshipped on local tariffs?—A. Well, I believe you will find it is generally shipped through from eastern points to destination.

Q. How could they ship through when the western roads would not prorate and would not make any through rates?—A. The destination was beyond Chicago.

Q. But they had to take a local rate from Chicago?—A. Yes; but that would not make a shipment from Chicago proper.

12075 Q. I know, but it would make a rate from Chicago, wouldn't it?—A. Why, certainly.

Q. Did you ever quote this 6-cent rate to any independent shipper so they could get it to East St. Louis?—A. No, sir; because we had through rates to East St. Louis.

Q. There were also local rates from the eastern points to Chicago, were there not?—A. Yes; but the through rate would make the combination of the locals.

Mr. MARTYN. You mean the 6-cent rate would be less than the combination of the locals?

WITNESS. Yes; that is what I have reference to.

Q. Is it not a fact that in October, 1905, a jobber of oil in Chicago telephoned your local agent to know what the rate on oil was from Chicago to East St. Louis, and did he not say it was 18 cents a hundred?—A. I don't know anything about what a jobber telephoned our local freight house.

Q. Then that local freight house did not know the rate?—A. If he had ever telephoned me he would have gotten the rate.

Q. Your local freight office did not have this 6-cent rate, did it?—A. I have already stated that.

Q. And the local agent would not be able to quote the 6-cent rate, would he?—A. I don't suppose so, if he didn't have it.

Q. And he didn't have any 10-cent rate, either, at that time, did he?—A. I don't know. I believe he did. My best recollection is he would have had.

Q. In October, 1905, did the local agent have the 10-cent rate?—A. Wasn't that tariff canceled, the 10-cent rate, in 1903 or 1904? My recollection is it was.

12076 Q. Now, did your local agent, in October, 1905—your local freight agent in Chicago—have any 10-cent rate in his office?—A. I believe he did. I think we issued the 10-cent rate in 1905 and canceled the 6-cent rate.

Q. Did you distribute it to your local agent?—A. I believe we did.

Q. Please produce the distribution sheet showing that, will you? I show you the billing order No. A–1082, and ask you if that was distributed to your local freight agent during the month of October, 1905?

Mr. MILLER. Do you know anything about it?

WITNESS. I have no recollection of this issue.

Q. You don't know whether it was in his possession or not?—A. I say I have no recollection of this issue. In 1905, my recollection is about July 1st the 6-cent rate was canceled and a stationary tariff was put in at a 10-cent rate.

Q. Well, where is it?—A. I could probably get it for you, as far as that goes.

Q. Well, do so, will you?—A. I think it was filed with the Interstate Commerce Commission at that time.

Q. Oh, no; it was not.—A. When it was issued.

Q. Show me where there was any rate filed with the Interstate Commerce Commission until after that time.—A. After what?

Q. After June, 1905.—A. Well, you said in October.

Q. Well, after October, 1905.—A. I think I can.

Q. All right. Will you do so?—A. I will if I can.

(A recess was here taken until 2 o'clock p. m., at which time the recross-examination was resumed by Mr. Kellogg.)

12077 Q. Referring to tariff No. 24 and its amendments, which have been testified to in this case and are in evidence, was there any addressograph or addressing machine which showed that the Standard Oil of Indiana, as to those tariffs, was on your list?

Mr. MILLER. What do you mean by "as to those tariffs?"

Mr. KELLOGG. Tariff 24 and its amendments, which have been described.

Mr. MILLER. When? At what period of time?

Q. Well, at any time.

Mr. MILLER. I object to that.

A. Your question is as to whether the Standard Oil Company ever received tariff 24 through the mailing process of our office?

Q. Whether you had an addressograph or other machine showing that they were on the list for that tariff 24 or any of its amendments.

Mr. MILLER. I object to that.

A. I could not say offhand, Mr. Kellogg, right here.

Q. You testified in relation to that in the Alton case, didn't you?—A. I testified in relation to having them on a mailing list, that is, the name of the Standard Oil Company, but I don't think I testified as to the mailing list in regard to tariff 24.

Mr. MILLER. Tariff 24 was not established as an Alton tariff, was it?

WITNESS. Why, it was before my time, of course, long.

12078 Q. Well, we will see. I think you did testify as to that.

Mr. MILLER. Tariff 24 was made in 1899, wasn't it?

WITNESS. As I recollect it, yes.

Q. What is your understanding about the Standard Oil Company being on this addressograph, and what was it for?

Mr. MILLER. What addressograph? I object to that.

Mr. KELLOGG. Well, the tariffs——

Mr. MILLER. There is no addressograph here. There is no addressograph.

Q. Please answer.—A. If you mean, Mr. Kellogg, whether the name of the Standard Oil Company was on one of the chains which we used in connection with an addressograph in Chicago at one time, I may say yes.

Q. Very well—at what time?—A. That I don't recollect now.

Q. Didn't you look it up to see?—A. I believe I did. I am not sure about that though.

Q. Was it ever dropped from that list?—A. I believe it was off and on.

Q. Wasn't it on at all times?—A. Now, I am not sure about that. I am pretty sure that it was taken off at one time and then put on again, or something of that kind. I forget just what it was.

Q. What is that addressograph?—A. It is a time-saving device. Instead of addressing a letter by hand, it is simply a machine in which you put the envelopes and it addresses by foot power.

Q. What was it used for?—A. It is used for addressing our 12079 envelopes to agents and others.

Q. Including the sending out of tariffs?—A. Including the sending out of tariffs where they call for such distribution, as the names on the distribution sheet. The name would necessarily have to be on the distribution sheet before it could be used.

Q. The distribution sheets contain a place on them to be sent to shippers generally, don't they?

Mr. MILLER. I object to that. They show for themselves.

Mr. KELLOGG. They are in evidence.

Mr. MILLER. Why ask the witness?

Mr. KELLOGG. Shippers generally. I want to connect it up.

A. To a certain extent, Mr. Kellogg.

Q. All of those distribution sheets showed as a blank under the head "Sent to" "Shippers generally," didn't they?

Mr. MILLER. Let us see.

Mr. KELLOGG. Why, certainly.

Q. I show you petitioner's Exhibit 560. Under the head of "Sent to," in the second column, is a list of "Shippers generally." Isn't that correct?

Mr. MILLER. You mean "Shippers general?"

Q. "Shippers general;" yes.—A. There is the word "Shippers," and underneath that "General," and then "Coal, grain, lumber."

Q. Now, what does that "Shippers general" mean?—A. "Shippers general" would mean that that was a general list. It was not any particular commodity list—that is, such a line of business as was interested in coal only.

Q. That is right.—A. They might be interested in miscellaneous issues.

12080 Q. Everything—oil or anything else?—A. Not necessarily, because there were some on that list who got class tariffs only.

Q. Certainly; but it might include a tariff which covered oil and classes of all kinds?—A. It might include oil; yes.

Q. Then "Shippers general" meant that the particular shipper or the particular kind of commodity was not named in this list on the distribution sheet, didn't it?—A. That is, if I catch your question, you mean that there was no specific list for oil shippers?

Q. Yes.—A. No, sir; there was not.

Q. Then, in order to send to shippers, "General shippers," we will call it, you had an addressograph with a list of names on, didn't you?—A. We had one chain which was "General shippers."

Q. Now, you had one of those chains with the name of the Standard Oil of Indiana in it, didn't you?—A. At the time the Standard Oil Company's name was on that list it would be under the "General shippers."

Q. Very well. The Standard Oil Company's name seemed to be on this list in 1903 and 1904?—A. Specially?

Q. Yes.—A. Yes, sir.

Q. Did their name not appear in the list on your addressograph under the "Shippers general?"—A. During that period, 1903–4?

Q. Yes.—A. Well, now, I would not say positively as to that just at this time.

Q. What is your recollection?—A. I have no distinct recollection as to that just now.

12081 Q. When do you recollect that their name appeared in that addressograph?—A. I have already stated that I know it was there at one time.

Q. Well, at what time?—A. I don't know any particular dates. I could not give you that now.

Q. Well, it must have been after——A. It is there to-day, I believe.

Q. It must have been prior to your testimony in 1907 and after you went there in 1902, wasn't it?—A. I would only have to surmise that now. My recollection is not perfectly clear on that.

Q. You don't know what was there before you went there?—A. No, sir.

Q. And you know what was there up to the time you testified in this Alton case?—A. Well, just as a general proposition.

Q. Then when you testified that the name of the Standard Oil Company was on that addressograph at one time, it must have been some time between those dates, wasn't it?—A. Whatever I testified to was what I understood at that time or knew at that time.

Q. Then at that time you said at one time they were on there?—A. I believe I did; yes, sir.

Q. And you still say that is true?—A. Why, they are on there to-day, as far as that goes.

Q. I know, but to-day could not have been the time that you referred to when you were testifying a year and a half ago?—A. Certainly not; certainly not.

12082 Q. What time were you referring to then?—A. Why, it might have been shortly before the trial; I don't know.

Q. How long before the trial?—A. I say I have no recollection as to the specific date.

Q. Did you look it up at that time to see?—A. I could not say positively just what I did then. I don't see, Mr. Kellogg, what that would have to do with the distribution of any of our tariffs.

Q. It would have to do with the distribution generally of the tariff, wouldn't it?—A. Not necessarily, unless the distribution sheet showed on the face of it that the general list entirely got that tariff, it would not make any difference whether the Standard Oil Company's name or anybody else's name was there.

Q. Didn't the general list get the amendments to this tariff 24?—I am not sure about that. I don't think they did. I don't think we distributed tariff 24 from our office as a general list.

Q. You distributed the amendments to tariff 24 from your office, didn't you?—A. To my best recollection, no; not to shippers.

Mr. MILLER. Mr. Kellogg, no amendment to tariff 24 named any rate on oil.

Mr. KELLOGG. It named a class rate on oil.

Mr. MILLER. It did not.

WITNESS. I believe, Mr. Kellogg, you have the distribution sheets in the record of the Alton case.

Mr. MILLER. Wait a moment. Let us see, because we may

12083 have put in those amendments. As I understand it, none of the amendments to tariff 24 made any rate on class 5, or on oil. Is that right, Mr. Durand?

Mr. MARTYN. No class rates.

Q. You said you made up I. C. C. 1203 yourself?—A. Yes, sir.

Q. Did you send it to the Standard Oil Company?—A. At the time it was issued?

Q. Yes.—A. I could not say at this time without looking up the record.

Q. Did you make up 1407?—A. My recollection is I did.

Q. Did you send it to the Standard Oil Company of Indiana?—A. I could not say without referring to the record.

Q. Then you don't know whether they ever had them or not?—A. I do know that I gave Mr. Bogardus copies of those issues.

Q. At the time they were issued?—A. That I could not say, just at the time they were issued.

Mr. MILLER. In the distribution sheet of one of those tariffs does the name of Bogardus appear?

Mr. KELLOGG. No, not that I recollect.

Mr. MILLER. I thought it did.

Q. Do you remember giving it to him shortly after it was issued, in each case?—A. I could not say specifically just what time it was.

It was probably during the years 1902 or 1903, during the time it was in effect.

Q. Now, the first one, 1203, was issued effective June 9, 1903: You issued that. What is your recollection as to having given it to Mr. Bogardus about that time?—A. I could not say now just what time it was.

12084 Q. You have no recollection on the subject at all?—A. Oh, I have a recollection of giving him a copy of it—a copy of those issues.

Q. Shortly after it was issued?—A. As I say, I could not say positively.

Q. About the time it was issued?—A. It was certainly after it was issued.

Q. Well, naturally. In this list of tariffs referred to in I. C. C. No. 1203, there are carload rates on oil to various places covered by the transcontinental freight bureau tariffs, are there not?—A. I guess the tariffs will show for themselves. I have not referred to them.

Q. What is your recollection of it [placing paper before witness]?—A. I could not tell by that without looking at the tariffs themselves.

Mr. MILLER. Before Mr. Hollands leaves the witness stand I should like to make a statement, and that publicly. I understand that to-day there went out over the ticker a statement with respect to Mr. Hollands' testimony here upon the cross-examination, that he was further questioned by Mr. Kellogg in regard to the unlisted 6-cent tariff rate on oil under which it is stated that the Standard shipped in 1906, while other shippers paid the class rate of 18 cents from Chicago to East St. Louis and other points out of the State. If any reporter here got any such idea as that from any portion of Mr. Hollands' testimony, I want to say publicly that he misunderstood the testimony absolutely; that there is no testimony here by Mr. Hollands which directly or indirectly showed or tended to

12085 show that other shippers of oil paid the rate of 18 cents from Chicago to East St. Louis, or from Chicago to other points out of the State of Illinois; on the other hand, that the evidence of Mr. Hollands absolutely contradicts that; and whatever the source of that report is, that it is absolutely unfounded. I want to state that before Mr. Hollands leaves the witness stand.

Mr. KELLOGG. Mr. Miller, you do not mean that I gave out any such report?

Mr. MILLER. Oh, not a bit. I feel sure Mr. Kellogg would not.

Mr. KELLOGG. I gave out no reports, but I have asked Mr. Hollands certain questions, and his testimony will appear in the record exactly as he gave it.

By Mr. MILLER:

Q. Mr. Hollands, have you testified directly or indirectly that other shippers of oil paid the class rate here of 18 cents from Chicago to East St. Louis, or from Chicago to any other point out of the State of Illinois?—A. No, sir.

Q. I understood your statement to be in the evidence here that the commodity tariff of 6 cents on oil from Chicago to East St. Louis had taken the place of the class rate of 18 cents, and that that rate of 6 cents was open to all shippers. What was the fact about that?—A. That was my statement; yes, sir.

By Mr. KELLOGG:

Q. Do you know that this 6-cent rate was open to all shippers?—A. Why certainly it was.

12086 Q. Did you ever quote it to any shipper in your life, except the Standard Oil?—A. There was no other shipper that was interested in the 6-cent rate.

Q. Did you ever quote it to any shipper in your life except the Standard Oil Company?—A. I don't know that I ever quoted it to the Standard Oil Company.

Q. Did you ever quote it to any other shipper?—A. I say there was no other interested, therefore I could not quote it.

Q. Will you answer the question whether you ever quoted the 6-cent rate—did you ever quote a 6-cent rate from Chicago to East St. Louis to any shipper, unless you quoted it to the Standard Oil? You can answer that, can't you?—A. I have already stated that I have no recollection of quoting any 6-cent rate at any time.

Q. Then you never did quote it so far as you know to any other shipper anyhow, did you?—A. I have already said there was no other shipper interested, consequently I would not have quoted it.

Q. Will you please answer the question. How do you know there was no other shipper interested?—A. Because there was no other shipper that ever used it or was interested in it.

Q. Yes; that is it. Because there was no other shipper ever used it. That is exactly it. Now, how do you know there was no other shipper that would have used it if they had known about it?—A. Because there were no shippers of oil located at Chicago.

12087 Q. How do you know that?—A. How do I know it?

Q. Do you know all the business houses of Chicago that handle oil?—A. Well, I should hope I would know if there was a shipper of oil in Chicago, if there had been.

Mr. MILLER. If there had been any shippers of oil in carload lots in Chicago you would have known it, wouldn't you?—A. Certainly; I should think so.

Q. There are shippers of oil in carload lots in Chicago. Do you say there are not?

Mr. MILLER. I object to Mr. Kellogg testifying.

Q. Do you swear there are, and have been, no shippers during these years in Chicago shipping out oil in carload lots?

Mr. MILLER. From Chicago to East St. Louis.

WITNESS. Over the Alton; I do.

Q. I am not talking about the Alton road.—A. Well, that is where I am confining my testimony—to the Alton road.

Q. Oh, you are?—A. Yes, sir.

Q. You don't know what shippers there were in Chicago that may have shipped on some other road, do you?—A. I don't believe there were ever any shippers that shipped on any other road.

Q. Do you know whether there were or not, Mr. Hollands?—A. My best understanding is that there were not.

Q. Then you swear that you know there were no other shippers who shipped over any other road out of Chicago oil in carload lots?—A. That is my understanding; yes, sir.

Q. That is your understanding. Where did you get that understanding?—A. Why, from the fact that I have been located in
12088 Chicago a good many years.

Q. In the office of the Chicago & Alton road. Do you watch the shipments over other roads?—A. Not necessarily.

Q. You don't at all, do you?—A. Why, no; not as a general proposition.

Q. Certainly not. And you don't know much about the actual shipments over your own road, do you?—A. In a general way; yes.

Q. Except in a general way. You don't keep track of the specific shipments?—A. I have already told you that.

Q. Told me what—that you did or didn't?—A. That I did not.

Q. Now, is it not a fact, sir, that there are independent shippers of oil at Toledo, Cleveland, Titusville, Bradford, Pittsburg, and other places in western Pennsylvania and Ohio?—A. I know of there being an independent shipper at Toledo, Ohio. As to the other points, why, I have no direct knowledge.

Q. You have no direct knowledge. Now, did you ever hear of the Valvolene Oil Company?—A. I believe I have heard of the name before.

Q. Didn't they have a wholesale warehouse in Chicago?—A. I don't know as to that—whether they have got a wholesale warehouse in Chicago.

Q. Where they sold oil into the western country and shipped it from there in carload lots?—A. They might have sold oil in the western territory.

Q. And shipped it from Chicago?

Mr. MILLER. What do you know about it, Mr. Hollands, if anything?

12089 WITNESS. I don't know whether they did ship it from Chicago, or anything of that kind.

Q. Very well. I want to know how much you know about it. Did you ever hear of the Sun Oil Company?—A. I have heard the name.

Q. Did they have a warehouse in Chicago?—A. Not that I know of.

Q. Do you know they didn't?—A. I don't know of any.

Q. Do you know that they didn't have one?—A. I don't know that they didn't, as far as that goes.

Mr. MILLER. Does that prove anything? I object to that.

Mr. KELLOGG. He has sworn that there were no other shippers who could ship except the Standard Oil Company. I want to find out how much he knows about it.

Q. Do you know that the Sun Oil Company did not have a warehouse in Chicago from which it made carload shipments of oil during these years into the country west of Chicago, and south?—A. I never heard of them having a warehouse in Chicago; never heard of a firm located in Chicago.

Q. Is the fact that you never heard of it conclusive proof that they did not have it?

Mr. MILLER. I object to that.

Q. Do you know George R. Jenkins & Company?—A. I have heard of the name; yes.

Q. Didn't they wholesale oil into that western country?—A. Not in carloads, that I ever heard of.

Q. Did they in less than carloads?—A. They might have.

12090 Q. Do you know that they didn't in carloads?—A. I don't think they are a large enough concern to handle carload business.

Q. Do you know that they did not ship in carloads?—A. I don't know whether they ever had a carload of oil or not.

Q. Then you don't know that other shippers did not pay a class rate of 18 cents out of Chicago on some railroad?

Mr. MILLER. Oh, well—well, go on.

A. As I have stated before, I have confined my testimony to the Alton Road.

Q. Then what do you mean—that there are no other shippers except the Standard Oil out of Chicago?—A. I never heard of any carload shippers of oil out of Chicago.

Q. That is all you mean about it?—A. That is what I mean about it; yes. I think if there had been any I would have known about it.

Q. You think you know about all the shipments over all the railroads, do you?—A. Oh, no; but if there had been any shippers they would have made themselves known as far as the Alton Road was concerned.

Q. Do you have charge of the traffic on the Alton Road?—A. Charge of the traffic?

Q. Yes.—A. Not as a general proposition; no.

Q. Are you the freight agent?—A. No, sir.

Q. Do you solicit freight?—A. Sometimes.

Q. You do?—A. Yes.

Q. When have you solicited freight?—A. A number of times.

Q. When?—A. When?

12091 Q. Yes.—A. Quite recently.

Q. Outside of the office?—A. Why, sure.

Q. You go out—it is part of your business to go out and solicit freight, is it?—A. No, sir.

Q. It is not?—A. Not as a general proposition. If I have any friends in business, though, I would certainly solicit for the company.

Q. You would. And do you assume from that that you know every shipper out of Chicago?—A. I am not assuming anything.

By Mr. MILLER:

Q. It is a part of your business to quote rates, isn't it?—A. Yes, sir.

Q. Were you ever asked for a rate on oil in carload lots from Chicago to East St. Louis by any other shipper than the Standard Oil Company?—A. Not that I ever knew of. I have no recollection of it.

Q. But if you had been, during the time that you were with the Alton, and the Standard Oil Company had been receiving from Whiting this rate of 6 cents, what rate would you have quoted the shipper?—A. I have already stated that I would have quoted the 6-cent rate.

By Mr. KELLOGG:

Q. But you never did quote it, did you?—A. I say I have no recollection of quoting it.

Mr. MILLER. Because you were not asked?

WITNESS. Or that I ever was asked for it.

Q. Give me the names of the employees in your office who had charge of quoting rates, will you please?—A. To-day?

12092 Q. No; during 1902, '3, '4, and '5.—A. F. H. Woodruff is one.

Q. Is he still working for the company?—A. No, sir.

Q. When did he leave?—A. Oh, some years ago.

Q. Who else during that time?—A. R. H. Stevenson.

Q. Is he still with the company?—A. No, sir.

Q. When did he leave?—A. Before or after Mr. Woodruff, I don't recollect which it was.

Q. Who else?—A. A. V. Marti.

Q. Is he with the company yet?—A. No, sir.

Q. When did he leave?—A. Oh, just recently.

Q. Was he there during 1902, '3, '4, and '5?—A. I am not positive as to the date he started there.

Q. What was his position?—A. Rate clerk at one time.

Q. What does that mean—rate clerk?—A. Quotation of rates exclusively.

Q. Name the men who were in your employ during those years whose duty it was to exclusively quote rates.—A. I have named them.

Q. Those are the only ones?—A. That is, there may be more. I don't recollect just now. I was trying to think of the names.

Q. Do you know where those men are now?—A. Why, I don't know positively. Mr. Marti is located in Indiana.

Q. Whereabouts?—A. I think it is Kersey, Indiana.

Q. In the employ of any railroad?—A. He is.

Q. What company?—A. Chicago & Wabash Valley.

Q. Where are the other gentlemen?—A. I am not sure where they are.

12093 Q. You don't know?—A. No; I don't know whether they are in Chicago or not.

Q. Who has charge of your office in your absence?—A. To-day?

Q. Yes.—A. A gentleman by the name of J. W. Graham.

Q. Who had in 1905?—A. I think the party I have named there, Mr. Woodruff.

Q. And he was the man whose exclusive duty it was to quote rates?—A. Part of the time, not altogether.

Q. Part of the time—what do you mean by that?—A. For a certain time he was exclusively on the quotation or rates.

Q. Who else was there during the year 1905?—A. Mr. Stevenson, the one I have named.

Q. R. H. Stevenson?—A. Yes, sir.

Q. Where is Stevenson?—A. As I said, I am not sure where he is.

Mr. KELLOGG. Now, will you please return here when you get the information you have been asked for?

WITNESS. Well, I think that was the looking up of papers, wasn't it?

Mr. KELLOGG. Various things, yes. I have forgotten. I will have to get a statement of them from the stenographer.

WITNESS. Will you furnish that to me?

Mr. KELLOGG. Yes.

Mr. MILLER. If he finds those things, would it be possible for him to send them in?

Mr. KELLOGG. I presume so, but I would not want to say
12094 now. I may want to ask him some questions about them, Mr. Miller. I can let you know afterwards. I will not put him to any inconvenience unless it is necessary.

12095 HORACE TUCKER, called on behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Mr. MILLER:

Q. Where do you live?—A. New Rochelle, New York.

Q. Were you ever in the railroad business?—A. Yes, sir.

Q. In what capacities and for what roads? What time?—A. I was with the Illinois Central for thirty years.

Q. In what capacities?—A. I was ticket agent, assistant treasurer, and general freight agent.

Q. And when did you leave the service of the Illinois Central?—A. 1892.

Q. And where did you then go?—A. I went with the World's Fair for two years.

Q. In charge of their——A. I was superintendent of their entire admission department.

Q. And after that?—A. In 1894 I was made chairman of the Chicago and St. Louis Traffic Association.

Q. How long were you so connected with that association?—A. Until December, 1906.

Q. And then you left the railroad business?—A. Then I went out of the railroad business.

Q. Then you were chairman of the Chicago & St. Louis Traffic Association in 1899?—A. 1899; yes, sir.

Q. While you were in the railroad freight traffic business, do you know what the practice of railroads was in quoting and apply-
12096 ing freight rates to traffic, as to applying local State rates to transportation by the railroad over its line between points in Illinois, or in the same State, when the freight or traffic either originated in another State and was destined to some point, say, in Illinois, or originating in Illinois was destined to points outside of the State. The question is as to what rates they applied, and whether or not they applied local State rates to traffic of that kind, either when there was no through rate to destination or when the sum of the locals was less than the through rate.

Mr. KELLOGG. That is objected to as incompetent. No practice of using an unfiled State rate for interstate commerce could make it legal.

A. I can only answer for the Illinois Central. If I may explain, at the time the interstate commerce act became a law the Illinois Central was crossed, over its system in Illinois, by twelve lines at two different points, having a branch and main line, and every one of those lines was in a receiver's hands. It was a question with the Illinois Central whether to continue through tariffs with its connecting lines or cancel them entirely and look out for the local business. Between the general manager and myself we decided to look out for local business and go out of all through business at that time.

Q. And did you do it?—A. Yes, sir.

Mr. KELLOGG. I move to strike out the answer as not responsive.

Q. You mean by that that you did not join in through freight prorating tariffs—is that it?—A. They could make a through
12097 tariff, but we ceased to have any prorating arrangements with them. We demanded our full local from every junction.

Q. Was it the practice of your road then, on shipments originating in another State and destined to points upon your road in Illinois, which you received in Illinois for transportation solely between points in that State, to apply your local——A. The full local rate for the distance.

Q. And those rates named in tariffs not filed with the Interstate Commerce Commission?—A. On our part there was no necessity for filing them.

Q. You applied rates under unfiled tariffs?—A. Yes, sir.

Q. And so, if you carried freight originating at a point on your line to another point in Illinois, and turned it over to a connecting carrier, and the freight was destined to some point out of the State, did you charge your local in the same way?—A. We charged our local and knew nothing about the through tariff.

Q. Did you have to do, Mr. Tucker, with making the tariff known as tariff No. 24 of the Chicago & St. Louis Traffic Association?—A. Yes, sir.

Q. And did you file or have to do with the filing of that tariff with the Interstate Commerce Commission?—A. I filed a complete copy,

and every time a supplement, with the Interstate Commerce Commission at Washington.

Q. Tariff 24 names rates on traffic from Chicago to East St. Louis—do you remember that?—A. Also from Milwaukee.

Q. Yes; also from Milwaukee.—A. Milwaukee, Wisconsin, and Watertown, Wisconsin.

12098 Q. Milwaukee and Watertown, Wisconsin, to East St. Louis?—A. Yes, sir.

Q. Were there any tariffs of that association preceding tariff 24?—A. Yes, sir.

Q. What were the tariffs which tariff 24 canceled and succeeded?—A. 22 and 23.

Q. What were they?—A. 22 was purely a local tariff from Chicago to Illinois points, including East St. Louis, Ill.; 23 was a tariff from Milwaukee groups and Watertown groups to the same territory in Illinois and East St. Louis.

Q. Then prior to tariff 24 the tariffs of your association were separated into one which was intrastate; that is, between points in Illinois, and the other, which was interstate, carrying traffic from points in Wisconsin—Milwaukee and Watertown—through the same territory as tariff 22, to points in Illinois and to East St. Louis?—A. Yes, sir.

Q. Was tariff 22, which you say was intrastate, or naming rates for transportation in Illinois, filed with the Interstate Commerce Commission?—A. No, sir; no necessity for it.

Q. Was tariff 23, which named rates from Milwaukee, Wisconsin, and Watertown, Wisconsin, to East St. Louis, filed with the Commission?—A. Yes, sir.

Q. Why did you file tariff 24?

Mr. KELLOGG. That is objected to as immaterial.

A. We decided, for economy's sake, not to reprint 22 or 23, but to merge them into one and to save a great expense to all the railroads.

12099 Q. Tariff 24 is a large tariff, a bulky tariff?—A. Tariff 24 would be, I should think, 50-odd pages.

Q. And so tariffs 22 and 23 were large bulky tariffs, were they?—A. Yes, sir, but not to the extent of 24.

Q. Was that the reason that you, in making the new tariff, consolidated it into one, instead of republishing it in two tariffs?—A. Yes, sir; solely.

Q. And why did you file tariff 24?—A. Because it contained interstate business, the Milwaukee and Watertown groups.

Q. It was filed then because of its succeeding tariff 23——A. Yes, sir.

Q. ——and covering traffic from Wisconsin points——A. Yes, sir.

Q. ——into Illinois points. Was it filed because of so much of it as related to transportation from Chicago to East St. Louis or other Illinois points?—A. No, sir.

Q. Did you have occasion to make amendments or supplements or exceptions to tariff 24, which related solely to transportation within the State of Illinois from Chicago——A. A great many.

Q. ——out of Chicago?—A. A great deal, sir.

Q. In those cases was it your practice to file those exceptions, amendments, or changes with the Interstate Commerce Commission?—A. No, sir; no, sir.

Q. Look at the papers now shown you and state what they are, if you know.—A. They are the exception sheets to tariff 24, issued from 1902 down to 1906, showing rates from Chicago to East St. Louis on certain commodities that might possibly be contained in tariff 24, and in the classification of Illinois, but reduced under these exception sheets.

12100 Q. Taken out of tariff 24?—A. Taken out of 24 bodily and placed in these sheets from time to time.

Q. Taking the rate named in those sheets?—A. Yes, sir.

Q. The commodity rate?—A. Yes, sir; the commodity rate. Those are in most cases carload lots. Occasionally you will find less than carloads, but in the main they are carloads.

Q. Were those filed with the Interstate Commerce Commission?—A. No, sir.

Q. Why not?—A. Purely Illinois matter, Illinois State.

Q. That is, they named a rate from one point in the State of Illinois to another point in Illinois?—A. To another point in Illinois.

Q. Were those issued by you, or by the Chicago & St. Louis Traffic Association?—A. By authority of the traffic association I issued them.

Q. And in the name of the association?—A. The Chicago & St. Louis Traffic Association.

Q. Precisely as you made the tariff 24 itself and the other amendments and supplements to it?—A. Yes, sir.

Q. How many of those do you remember are there?—A. I think—only from memory, because I have been away from there about two years—the association was abolished two years ago—I think they number twenty-five.

Q. Now, with respect to petroleum and its products, what have you to say with respect to the application of tariff 24 to those commodities, and if anything took place with respect to those commodities in the making of tariff 24.—A. It was always under-

12101 stood, in the making of tariff 24 and previous tariffs, that four commodities would be exempt—coal, coke, grain, and petroleum.

Mr. KELLOGG. That is objected to. The tariff is the best evidence of what was exempted.

Q. What was the understanding with respect to the making or application of rates to those commodities?

Mr. KELLOGG. Same objection.

A. That the lines were at liberty to make their own rates.

Q. Now, if one of the carriers, members of the Chicago & St. Louis Traffic Association, did make a commodity tariff covering petroleum or any of those commodities that you speak of—these four commodities that you speak of—what after that would be the fact as to

whether tariff 24 would apply to it?—A. As far as my knowledge was concerned, I would know nothing of that special tariff.

Q. The line itself would make the special tariff?—A. I would have no knowledge of that.

Q. Well, I say, but assume that it did make a commodity tariff on that commodity?—A. As far as that line was concerned, that special tariff would govern.

Q. And not tariff 24?—A. And not tariff 24.

Q. Tariff 24 did not anywhere name petroleum or its products?—A. No, sir.

Q. Although it named 150 commodities?—A. Yes.

Q. Besides making class rates?—A. Yes; more than that in some of the supplements.

Q. And tariff 24, in this list of commodities, named a rate as low as 6 cents per 100 pounds, in carloads, as to some; for instance, sand and stone.

12102 Mr. KELLOGG. The tariff is the best evidence of that. It shows for itself. What is the use of going all over that?—A. Yes; 6 cents.

Q. And named other rates on other commodities?—A. Yes, sir.

Q. 7?—A. 7 and 8.

Q. And some of these exceptions to tariff 24 which you are shown here name rates between Chicago and East St. Louis as low as 5 cents, for instance, cement in carloads, and other commodities at 6. For instance, wheat and other grain, and vinegar and flour, in the one now shown you [handing witness paper]?—A. Yes, sir.

Q. There is one rate there as low as 5 cents per hundred, is there not?—A. 4½.

Q. What is that?—A. Brick.

Q. And another of 5 on cement?—A. Yes, sir; cement.

Q. You were familiar, were you not, with the practice of railroads in applying Chicago rates to points within the Chicago switching district?—A. I won't say officially, no. Officially I was not.

Q. You mean as chairman of the traffic association?—A. As chairman.

Q. But from your experience——A. Observation——

Q. From your experience and your observation as a railroad man?—A. Yes, I understood it applied to and from all points in the Chicago district—Chicago rates.

Q. Then it was the practice of railroads to apply Chicago rates, with perhaps a fixed minimum rate per hundred pounds, to points in the Chicago switching district, the road applying the rate

12103 absorbing the necessary switching charge to get the traffic over to its line?—A. That has always been my understanding.

Q. In that way, Mr. Tucker, the different shippers at those different points got the benefit of the choice of the routes over the railroads for their shipments at Chicago rates?—A. Certainly.

Q. Got the benefit of competition of the trunk lines?—A. On freight.

Q. For freight?—A. Yes, sir.

Q. And got the benefit, each of the same rate, although they were located off the line of the particular road, and connected by a switching line?—A. They equalized the disadvantage by paying that switching.

Q. And so gave the benefit to the shippers at those different points of the competitive rates of the different trunk lines?—A. Yes, sir.

Q. And gave the roads the opportunity of competing for the business?—A. That is right.

Q. Well, what would you say as a railroad man as to whether that operated to give the different shippers of merchandise the benefit of equal rates under substantially similar conditions, as contemplated by the interstate commerce act?—A. In locating on those lines, their first request is "What facilities can we get?" As long as they get the Chicago advantages why they are put on a par with Chicago.

Q. Yes, and on a par with each other?—A. Yes, sir.

12104 Q. And the effect of that is to build up industries at those points?—A. Outside of Chicago.

Q. Are you familiar with the line of the Chicago Terminal Transfer Railroad?—A. No, sir.

Q. In the practice of the railroads in so applying Chicago rates to points within the Chicago switching district, what would you say as to whether it was the practice or not to apply those Chicago rates to such switching points, although any such switching points were over the line in Indiana, like East Chicago, Whiting, and Hammond?—A. My understanding at the time at least was——

Mr. KELLOGG. That is objected to as incompetent and immaterial.

Q. Go on.—A. That the lines would apply those reduced rates, or those exception sheets, the same as they would tariff 24, wherever tariff 24 applied. Where any reduction is made, they would extend that reduction to that territory.

Q. If the traffic came over by a switching line from a point like Whiting or Hammond or East Chicago to the line out of Chicago, the trunk line taking it would absorb and pay the interstate switching charge of the connecting switching road?—A. That has always been my understanding of it.

12105 Cross-examination by Mr. KELLOGG:

Q. How long since you left the Illinois Central Railroad?—A. 1892.

Q. That was five years after the interstate commerce act was passed?—A. Yes, sir.

Q. You have not been railroading since?—A. I have been chairman of the Chicago & St. Louis Traffic Association twelve years.

Q. But I mean you have not done active railroading since?—A. No. I don't know whether you would call being chairman of a traffic association active railroading or not.

Q. Well, it may be active tariff railroading.—A. It sort of keeps you busy.

Q. But in the actual handling and shipping of freight, I mean, over different tariffs, you know nothing about it?—A. Oh, no; nothing at all.

Q. You have had since that time no personal experience as to the practice of railroads shipping under these unfiled tariffs local to Illinois?—A. No, sir.

Q. Your association had nothing to do with it?—A. Nothing whatever.

Q. And all you pretend to testify about the application of those tariffs to the Chicago switching district is general understanding or what somebody may have told you?—A. General understanding had in meetings.

Q. As to applying your local tariffs in Illinois, without
12106 filing them with the Commission, you simply understood, didn't you, that shipments commencing and ending in Illinois under a tariff of that kind did not have to be filed with the Interstate Commerce Commission?—A. That was purely an Illinois matter and not filed with the Commission.

Q. You do not testify that the railroads had a right to make interstate shipments on through bills of lading without filing the local tariff?—A. I only state the case at the time I was general freight agent, when we canceled all through tariffs. They could not make a bill of lading through to a point on our line in Illinois; they could to the junction.

Q. You would not accept a through bill of lading?—A. No, sir.

Q. You confined your shipments on the Illinois Central road during those years, after the passage of the interstate commerce act, to shipments purely local on your road?—A. So far as the Illinois Central understood them.

Q. And you refused to accept a through bill of lading?—A. Yes, sir.

Q. If shipments had been made, however, on a through bill of lading, from another State into your State, you would not have accepted it under a local tariff?—A. We certainly would not. The initial line would have been obliged to file that tariff.

Q. Then, your understanding is that since the passage of the interstate commerce act, shipments on through bills of lading into a State, from outside the State into the State, the tariff, whether it is the local tariff of the line or not, must be filed with the Interstate
12107 Commerce Commission?—A. I should say all through tariffs would be obliged to be filed with the Commission.

Q. Perhaps I did not make myself clear. A shipment from Ohio to Springfield, Illinois, over the Lake Shore & Michigan Southern Railroad and the Chicago & Alton Railroad, on a through bill of lading, you understand to be, under the interstate commerce act, an interstate shipment?—A. Yes, sir.

Q. Suppose the Lake Shore & Michigan Southern road had a 12-cent per hundred tariff from Cleveland to Chicago, and the Chicago & Alton had an 8-cent per hundred tariff from there to Spring-

field, although they collected their own local rates, if they accepted the shipment on a through bill of lading it was an interstate shipment and those local rates must be filed with the Commission?—A. So far as the Lake Shore is concerned.

Q. Why wouldn't it be so with the Alton?—A. The Alton does not originate the freight.

Q. I know, but if it accepts it under a through bill of lading?—A. I can not say as regards accepting. The Illinois Central refused to accept. I am only answering as to the Illinois Central. If the Alton took that shipment under a through bill of lading, I should say that the Chicago & Alton concurred in the Lake Shore tariff. It only requires a concurrence.

Q. That is right. I will take the Illinois Central road. You run to Springfield, don't you?—A. Yes, but not direct. Take Mattoon.

Q. Well, Mattoon, Illinois. You connect with the Lake Shore road in Chicago, and when the interstate commerce act was passed you refused to accept through bills of lading, say, from
12108 Ohio to Mattoon, Illinois?—A. Yes, sir.

Q. Because the through bill of lading made it an interstate shipment, and if you accepted it under the through bill of lading you joined with that road in making it an interstate shipment?

Mr. MILLER. No.

Q. Is that correct?—A. But it reduced our earnings, it reduced our local rate, Mr. Kellogg.

Q. Yes, but it is the through bill of lading which you accept which makes it an interstate shipment, isn't it?—A. If the Illinois road accepted it.

Q. Yes.—A. Yes, sir.

Q. Now, you are familiar with the rules put out by the Interstate Commerce Commission from time to time?—A. I used to be, but I have not kept in touch with them lately.

Q. I show you a rule dated February 13, 1888, which was shortly after the pasage of the interstate commerce act. "Roads located wholly within one State or Territory, which interchange freight or passenger traffic with connections to or from points outside of such State or Territory on through tickets or bills of lading, should file tariffs covering such traffic with the commission."—A. That is right.

Q. You remember that?—A. That is right.

Q. You remember that rule, do you?—A. Sure.

Q. So that if you accepted shipments under through bills of lading, it did not make any difference whether your tariff was local or not; you must file it with the Commission if it was a part of the
12109 through shipment?—A. The Lake Shore, mind you, is the one that would file that tariff. If we originated the freight from Mattoon to Cleveland we would be the fellows to do it.

Q. Let me state it the other way. Suppose you are going to make a shipment from Mattoon to Cleveland.—A. Yes, sir.

Q. And your tariff was a purely State tariff in Illinois from Mattoon to Chicago, of 8 cents a hundred.—A. Yes.

Q. And the Lake Shore's tariff from Chicago to Cleveland is 12 cents a hundred?—A. Yes.

Q. You would not bill that from Mattoon to Cleveland, because——A. No, sir. We would just show our earnings up to Chicago.

Q. In other words, you would refuse to make a bill of lading to Cleveland?—A. Yes. We would consign it to John Smith, Cleveland, and let it take the local rate from Chicago to Cleveland.

Q. You would not execute a bill of lading agreeing to lay that stuff down in Cleveland?—A. In fact we had notified our connections we were out of through business.

Q. Then, you understand by this rule of 1888, that although your tariff may have been a local Illinois tariff, if you used it on a through bill of lading it must be filed with the Commission?—A. We would have to show a through rate if we issued a through bill of lading.

Q. That is right. And has it not been the rule from that day to this, that if you issued a through bill of lading you must file a through tariff or a tariff that showed your share of the rate?—A. That is the way I would look at it.

12110 Q. Now, I show you that publication. [Handing witness pamphlet.] You are familiar with that?—A. Yes, sir.

Q. Now, Mr. Tucker, tell me what a through bill of lading from Mattoon, Illinois, to Cleveland would be—what the form of it is. The Illinois Central would execute it, say, at Mattoon?—A. The Illinois Central would issue a bill of lading to the shipper; that is, it would issue a through bill of lading to the shipper, showing through rate to destination, the consignee's name, and the estimated weight of the freight. The agent would sign it.

Mr. MILLER. And the route?

WITNESS. And the route. Well, the waybill would show the rate only. We did not always put the route in the bill of lading.

Mr. MILLER. The through rate would indicate that?

WITNESS. Yes, sir.

Mr. KELLOGG. Now, Mr. Miller, please let me examine the witness.

Q. The bill of lading is a receipt to the consignor, is it not? That is one thing.—A. Yes, sure.

Q. It names the consignee and the destination?—A. Yes, sir.

Q. That is another thing. It usually names the through rate or the sum of the rates that make the total rate, does it not?—A. Generally.

Q. Generally; it is not necessarily so, I suppose?—A. Oh, no.

12111 Q. It may not name the rate?—A. Oftentimes no through rate is given.

Q. But it is a through bill of lading if it names the origin and destination of the freight, and is a receipt to the shipper?—A. That is

right. It is done to enable a party to draw on a bank for a certain amount of money.

Q. Now, if you issued at Mattoon, Illinois, such a bill of lading, naming John Jones as consignor, Mattoon, Illinois, and Samuel Smith, the consignee, Cleveland, Ohio, one carload of brick, under the Illinois Central's rate, 8 cents a hundred from Mattoon to Chicago, and the Lake Shore rate, 12 cents a hundred from Chicago to Cleveland, you would call that a through bill of lading?—A. That would be a through bill of lading.

Q. And you would not have a right to issue that unless each one of those tariffs—the Illinois Central and the Lake Shore—was filed with the Commission?—A. That has been my understanding, sir.

Q. Now that is the reason, Mr. Tucker, why, during the few years after the interstate commerce act was passed, the Illinois Central refused to join in those through bills of lading?—A. That was made just to protect their railroad.

Q. A purely state rate which it had a right to use?—A. Yes, sir.

Q. Now, you are familiar with the various rulings of the Interstate Commerce Commission, holding that local rates when used under through bills of lading must be filed with the Commission, are you not? Local rates when used as a part of a through bill of lading.—A. Yes; I get that point.

12112 Q. Similar to that rule? [Handing witness the pamphlet.] A. Yes.

Q. Do you remember the case of the Export Grain Rates, which all the Chicago roads were parties to, in 1899?—A. No; I do not. That came up under my brother, I guess.

Q. I guess it was.—A. I think he was mixed up in that.

Q. I was thinking you were a witness in that case.—A. Oh, no.

Q. It was your brother?—A. My brother, Joe.

Q. My recollection is that was decided in about 1899. Weren't you in Chicago at that time?—A. Oh, yes; but I was not called on that case.

Q. But you remember the decision?—A. Fortunately I got out of that case.

Q. Now, do you not know of any practice of the railroads during the last five or six years to use local state rates which were not filed with the Commission for shipments of interstate freight under through bills of lading?—A. Not to my knowledge; I could not say as to that.

Q. You never heard of any such practice?—A. That never came to my knowledge.

Q. You were at the head of the Chicago & St. Louis Traffic Association?—A. For twelve years.

Q. And you had frequent meetings?—A. Oh, yes.

Q. And these questions of freight rates and local rates and various rates were up frequently?—A. No; merely adjusting that tariff 24. That was our province.

Q. Now, tariff 22 was a purely local tariff in Illinois, was
12113 it?—A. Yes; in Illinois; from Chicago to Illinois points.

Q. But when it was combined with tariff 24——A. 23.

Q. 23; yes; the next issue, and became partly purely local and partly interstate, you filed it with the Commission?—A. With the Commission.

Q. Now, if a shipment of petroleum was made from Whiting, Indiana, to East St. Louis under a through bill of lading, you would not apply an unfiled tariff for the portion in Illinois?—A. I would not know anything about the Whiting rate.

Q. I know, but under the rules you have been referred to you would not apply it?—A. My tariff reads from Chicago, Mr. Kellogg. I can't tell what the lines outside of Chicago are doing all the time.

Q. I understand; but take the Illinois Central road, which now has a line to East St. Louis, I believe.—A. Yes, sir, of their own.

Q. If you accepted from the Chicago Terminal Transfer or the Lake Shore & Michigan Southern or the Baltimore & Ohio Railroad a shipment of petroleum oil under a through bill of lading, such as you have been describing, from Mattoon, you would not use an unfiled Illinois State rate for your proportion of it.—A. It would be according to what my arrangement would be with the switching line.

Q. I mean under the ruling of the Interstate Commerce Commission. If it was a through bill of lading from Whiting, Indiana, to East St. Louis it would be an interstate shipment, wouldn't it?—A. Naturally so.

12114 Q. And you would not accept an unfiled rate any more than you would accept it from Mattoon to Chicago on its way to Cleveland?—A. Not if a through rate is shown—if a through rate is given.

Q. Well, a through bill of lading.—A. A through bill of lading showing a through rate.

Q. Or showing two rates making up the through rate?—A. That would be a through rate, of course—the combination.

Q. Certainly. In other words, you use the unfiled tariff as a part of a combination of a through shipment under a through bill of lading?—A. If a through rate is given.

Q. Well, if a through bill of lading is given?—A. A through bill of lading might be given, but no through rate. There is a difference between a through bill of lading and a through rate combined. That is what I am looking at.

Q. Yes, but you stated a few moments ago that if you were making a shipment from Mattoon, Illinois, to Cleveland under a through bill of lading——A. And a through rate.

Q. The bill of lading showing your rate as 8 cents a hundred to Chicago, and the Lake Shore rate from Chicago to Cleveland, if it was a through bill of lading, you would not use those rates without they were filed with the Commission?—A. No; a 20-cent through rate.

Q. Now, suppose you were taking a shipment from the Lake Shore & Michigan Southern Railroad, which runs through Whiting?—A. Yes.

Q. And then over the Illinois Central to East St. Louis, the bill of lading giving the name of the consignor and the consignee, the
12115 origin and place of destination, and the rate as follows: 4 cents a hundred Lake Shore & Michigan Southern's rate, 6 or 8 cents a hundred the Illinois Central rate, you would call that a through bill of lading?—A. Filed with the Commission.

Q. And you would file each one of those rates with the Commission?—A. Yes, you would file that tariff with the Commission.

Q. If they were separate tariffs they would be filed with the Commission?—A. No.

Q. Why not?—A. The Lake Shore gives a through bill of lading of 12 cents, according to your figuring now, from Whiting to East St. Louis.

Q. Yes, but it states it separately?—A. It is a division of a through rate though.

Q. Not necessarily.—A. That is my point.

Q. Now wait a moment. You say a bill of lading may be a through bill of lading. What does this mean: "Roads located wholly in one State or Territory, which interchange freight or passenger traffic from connections to or from points outside of such State or Territory on through tickets or bills of lading, should file the tariffs covering such traffic with the Commission"?—A. That is all right. The Lake Shore should file that tariff.

Q. "If such through rates are made by the addition of local rates to the rates of connecting roads, such local tariffs should be filed with the Commission, together with a statement that through interstate rates are made by adding such local rates to the rates of the carrier (naming it) with which connection is made"?—A. I get the point now—the latter part.

12116 Q. You didn't understand me.—A. I mean this: The Lake Shore would bill its property up to the Illinois Central——

Q. No, no; suppose it bills it through on a through bill of lading?—A. Yes.

Q. Just read both of those clauses over.—A. Yes, and the Illinois Central gets 8 out of the 12.

Q. Yes, but as it says there, they are separate tariffs.—A. I see they are. It might be to protect interstate commerce on that through basis, that they filed that tariff.

Q. Yes, that is exactly what I mean.—A. I did not understand it was compulsory.

Q. Well, it is, isn't it?—A. I lost track of it.

Mr. MILLER. It is not compulsory.

Q. Well, isn't it under that, Mr. Tucker?—A. I won't say that. I am not legally up, but while I was there I never took that view of it.

Q. Well, but you never took a through bill of lading; you refused to take a through bill of lading.—A. I said that.

Q. Now, under that rule it was the practice of the Illinois Central to refuse to accept through bills of lading?—A. Yes.

Q. Whether they showed the rates or not, wasn't it?—A. That is right. We used to demand our local rates.

Q. You would not accept a through bill of lading even if the through bill of lading did not name any rate. You let them bill it up to way and then you rebilled it, didn't you?—A. I would not say the bill of lading. They would bill it up to us and we would re-
waybill from our junction.

12117 Q. Now, under that rule, is it not your understanding that if a through bill of lading is made from Whiting, Indiana, to East St. Louis, naming the consignor as the Standard Oil Company, Whiting, Indiana, and the consignee as Standard Oil Company, East St. Louis, route Lake Shore & Michigan Southern Railroad, Illinois Central road; the rate, Lake Shore & Michigan Southern, 4 cents a hundred; Illinois Central, 8 cents a hundred; shown by separate tariffs as stated in this rule, is not that an interstate shipment and each tariff would have to be filed with the Commission? Was not that your practice?—A. I am going to say from my memory, no, it was not.

Q. Why?—A. Simply because we paid very little attention to it.

Q. Well, you say you refused to accept through bills of lading?—A. I say the Illinios Central had no through bills of lading.

Q. Why did you refuse to accept through bills of lading?—A. Well, Mr. Kellogg, as I understand you—our line was cut up terribly. The formation at the time the interstate-commerce act went into effect was that we had 42 pools. We killed them all in a minute, and it resulted in our confining ourselves to local business, because every twenty miles we were crossed by a railroad and that line was in a receiver's hands. There was not a line between Chicago and Cairo that was not in a receiver's hands. So we held strictly to our local rates. Probably no other road was obliged to do that.

Q. As I understand you, you would not issue for the Illinois Central Railroad a through bill of lading from Mattoon, Illi-
12118 nois, to Cleveland, Ohio, although you charged your local rate and they charged their local rate, it being a through bill of lading?—A. There would be no necessity for a bill of lading; it would probably take care of itself.

Q. I understand, but you would not use such a bill of lading?—A. No, sir.

Q. And if you did use such a bill of lading, it would be a through shipment, wouldn't it?—A. The Illinois Central would cheerfully file the tariff because it originated the freight.

Q. "If such through rates are made by the addition of local rates to the rates of connecting roads, such local tariffs should be filed with the Commission, together with a statement that through interstate rates are made by adding such local rates to the rates of the carrier

(naming it) with which connection is made." You followed that, didn't you, in the Illinois Central?

Mr. MILLER. I object to that.

A. Yes.

Q. That rule was made shortly after the Interstate Commerce Commission was organized?—A. Yes, I know that. But it did not apply to us, as I explained, because we had no through tariffs.

Q. Now suppose we reverse that proposition. Suppose the Illinois Central was taking a shipment from East St. Louis and shipping it to Whiting, Indiana. Would you issue a through bill of lading for that, showing the origin and destination, the consignor and the consignee, and the separate rates of each line, as the originating

12119 line?—A. Knowing that there was a switching rate from the junction at which the Illinois Central delivered it to the line going to Whiting, it would bill at its rate to that junction and show switching charge so much.

Q. But you would not issue a through bill of lading to Whiting?—A. No.

Q. Because it would make it a through shipment?—A. Yes, sir. But there would be a switching rate shown so the man would not be overcharged.

Q. But you would not issue a through bill of lading?—A. No, sir.

Q. Because you deem that would make it an interstate shipment?—A. Yes.

Q. Whatever the rates were you would state in the bill?—A. The through rate would be shown and the switching rate would be shown.

Q. Now, suppose you were asked to make a through bill of lading from East St. Louis to Whiting, Indiana, in this form: The Illinois Central issuing to the shipper a bill of lading naming the consignor at East St. Louis, the consignee at Whiting, the connecting road, the two roads, the Illinois Central and the Lake Shore & Michigan Southern, and your rate 8 cents a hundred, their rate $3 a car; would you issue such a bill of lading unless those rates were filed with the Commission?—A. I don't know as you could call that interstate business.

Q. Why not?—A. There was a switching charge there only.

Q. Well, suppose it was 3 cents a hundred, then?—

12120 A. Then it was an interstate tariff. If you gave them an 11-cent rate through, the man could ask for a bill of lading if he wanted it.

Q. That is, making it an 11-cent rate by two separate tariffs?—A. Yes. It would be a through tariff then; a through rate is given.

Q. A through rate is named?—A. A through rate is named, and the party is entitled to a bill of lading then.

Q. Then, as I understand you, you would understand that the Illinois Central would have no right to issue a through bill of lading naming 6 cents a hundred from East St. Louis to Whiting as the total charge, without filing this with the Commission, although it

was a local State tariff?—A. That is a switching charge there, as I understand it.

Q. Well, switching charges have to be filed with the Commission if they are interstate, don't they? If they are interstate switching charges they must be filed with the Commission just the same as though they were so much per hundred?—A. If the Illinois Central should show a through rate from East St. Louis to Whiting, say, of 6 cents, it would certainly file its tariff with the Commission. It is a through tariff then. It is none of the Commission's business what the division is.

Q. But you do not understand that you have any right to ship goods on a through bill of lading without showing the rates, whether they are separate or not—I mean without filing the rates
12121 whether they are separate or not?—A. But you do not have to show the division of the rate in your tariff.

Q. Oh, no, I understand that.—A. Or the bill of lading either. It is the waybill that shows the division.

Q. You do not have to show any rate at all in a bill of lading unless you want to?—A. No.

Q. But the bill of lading makes it the through shipment?—A. Yes, sure.

Q. And if you do show the rates in a through bill of lading—A. It is fair to presume you have got a tariff.

Q. Then they must be filed with the Commission?—A. That is my understanding.

Q. Whether each separate road in each State has a separate rate or not?—A. If it is a combined rate, shown in an interstate tariff, it is generally lodged with the Commission.

Mr. MILLER. What do you mean by a combined rate? You don't mean all shown in one tariff?

WITNESS. Suppose, for instance, Chicago to Kansas City there is a 50-cent rate shown. That 50-cent rate is divided oftentimes between three different roads between Chicago and Kansas City, and the waybill shows that, but it is settled by a decision in the auditor's office. The auditor sometimes settles all accounts.

Q. Suppose you are going to make a shipment from New York right straight through to Chicago, going through the State of New York, say on the Pennsylvania Railroad, through New Jersey.—A. It is over one system there.

Q. Well, let us show several systems.—A. Show three or four lines. Say that is New York to Chicago over three dif-
12122 ferent roads.

Q. Three different roads and three different States!—A. Yes.

Q. The bill of lading is issued in Chicago to deliver the goods to New York. The rate in Illinois is stated as the Illinois Central's rate; the rate in Indiana and Ohio is stated as the Lake Shore's rate, we will say, and the rate in New York as the New York Central's rate, but with a through bill of lading. Under that rule must

they be filed with the Commission if we say that is a through bill of lading?—A. You give a through bill of lading; it is fair to presume there is a tariff that covers the right of that agent to make that bill.

Q. Whether those tariffs are separate or not?—A. Whatever the combined rate is.

Q. In other words, if you use the local rates, the combination of local rates, to make a through shipment under a through bill of lading, you must file the local rates with the Commission?—A. If you put up those two items together.

Q. That is right; that is the way I understand it. And it was for that reason that the Illinois Central refused to make or join in through bills of lading?—A. They wanted to protect their revenue.

Q. How many times since 1888 has that rule been issued? [Handing witness pamphlet.]—A. I could not say. I never see the documents at all.

Q. But you are familiar with the rule that was issued, aren't you?—A. Well, at that time, but I do not know how many times it has been reissued; I could not answer that.

12123 Q. Do you remember the Social Circle case, where they decided——A. No, sir.

Q. You don't remember that? Did your office usually keep these rulings and pamphlets of the Commission?—A. No, sir; we had no occasion for them except as they applied to Milwaukee.

Q. I wish you would read over that whole rule to yourself, so that you are thoroughly familiar with it.—A. Which one—this one here?

Q. Yes.

(The witness read circular No. 6, page 20 of the pamphlet.)

Q. You never knew anything about this 6-cent rate on oil that was on the Alton road?—A. No, sir.

Q. You never heard of that, did you?—A. No, sir; only hearsay.

Q. Only hearsay, since it was agitated?—A. About two years ago.

Q. About two years ago, yes; at the time of the trial in Chicago?—A. Yes, sir.

Q. For years prior to that did you ever hear that there was a 6-cent rate on oil?—A. No, sir.

Q. Are you familiar with the Western Classification?—A. Not to any extent; no, sir.

Q. You spoke about a class rate. All class rates or tariffs showing class rates, for instance like this tariff 24, have a classification going with them, don't they?—A. Yes, sir.

Q. In other words, you can not make a class rate without a classification?—A. Oh, you have got to have a classification.

Q. So there is nothing peculiar in the fact that tariff 24
12124 had a classification?—A. Tariff 24, as far as it applied in Illinois, was the Illinois Classification. Wisconsin was Western Classification.

Q. You filed the Illinois Classification and the Western Classification with the Commission?—A. I presume it was sent by the other roads.

Mr. MILLER. You don't know anything about that, do you, Mr. Tucker?

WITNESS. Not the classifications.

Mr. KELLOGG. It does appear they were filed.

Mr. MILLER. You never filed them?

WITNESS. I could not say. On the back of the tariff it states, I think, the lines that concur in that tariff.

Q. Oil in the Illinois Classification and in the Western Classification, carload lots, is classified 5th class, isn't it?—A. In Illinois I know it is.

Q. You are familiar with this transcontinental freight bureau tariff?—A. Not at all, sir.

Q. Or the Western Trunk Line tariff?—A. I know nothing of them outside of our own association.

Q. Only the Chicago & St. Louis Traffic Association?—A. That is all.

Q. Do you remember the decision of the Interstate Commerce Commission, published April 12, 1899, which contained this clause in the closing of the opinion: "When rates established to apply between points within a single State are applied as part of combination rates on transportation through different States, such State rates,
12125 as well as the interstate rates with which they are combined, must be published at stations and filed with this Commission as provided in section 6 of the act to regulate commerce?" Are you familiar with that?—A. I remember that. It is in line with the—

Mr. MILLER. I object to that as incompetent, immaterial, and irrelevant.

Q. The title of that case was "In the matter of export rates from points east and west of the Mississippi River." You remember that, do you?—A. I remember it came up in that association, but the Illinois Central would not be interested in that.

Q. But I say you remember the decision of the commission at that time?—A. Very faintly.

Redirect examination by Mr. MILLER:

Q. Mr. Tucker, to return to this question of through bills of lading, about which Mr. Kellogg asked you in a very long examination and put to you quite a good many leading questions——

Mr. KELLOGG. I have a right to on cross-examination, I believe.

Q. Which perhaps you did not understand. Taking up what you said about the Illinois Central refusing to accept through bills of lading, you said near the end of your cross-examination that the purpose of this was that the Illinois Central wanted to protect their revenue, and I think you said that to start with. What did you mean by that?—A. The Illinois Central really had very little local territory that it could consider local territory, because every twenty

miles was a junction. So it would frequently happen that a
12126 shipment would come to us at one junction, just going twenty miles to another junction, each side. It would have been folly for the Illinois Central to have participated in a prorate, carrying the freight probably for nothing. Besides that, we got strictly our local rate for the short haul, twenty miles.

Q. Then, it was to get your local rate instead of your proportion of a through rate?—A. To get our local rate instead of our proportion of a through rate and surrender our local stations to the competitor.

Q. The thing that you were protecting yourself against, then, was the obtaining of very much less revenue from receiving your percentage or division of the through rate than what your local rate would be?—A. Yes, sir.

Q. What did you mean by refusing to accept a through bill of lading? Supposing the shipment were, we will say, from some point east, over the connecting line from that point to your road and then over your road to the connecting point with another road, and on through to destination. What do you mean by refusing to accept a through bill of lading? A bill of lading does not come with the shipment, does it?—A. The waybill is what accompanies every shipment.

Q. What did you mean by stating that you refused to accept a through bill of lading?—A. If a through bill of lading were given it would naturally follow that a through rate had been created; then that through rate would appear on the waybill. The Illinois Central preferred to let that business strike it at its junction
12127 unprotected by any waybill or bill of lading.

Q. Suppose a shipper, we will say at Toledo, had shipped some freight destined to East St. Louis and had given to the initial shipper at Toledo shipping instructions, naming the route; that is, named on there the different connecting roads over which that shipment was to go to East St. Louis, and included the Illinois Central for a portion of it, and the initial carrier receiving the freight gave the shipper a receipt for the goods, describing them, their weight, the consignee at East St. Louis, and naming the route, which was a duplicate of the shipping directions, but named no rate upon this instrument, this receipt, and that freight came to the Illinois Central. You would carry the freight, then, would you not?—A. We would carry it at our local rate.

Q. And you would deliver it to your next connecting carrier?—A. I understood you to say going to East St. Louis alone.

Q. Yes. At that time the Illinois Central did not have a route into East St. Louis of its own?—A. No; we delivered to the Vandalia. But we went out of that business because those trunk lines always had through lines of their own.

Q. Now, we will say that a carload of oil was shipped from Whiting, destined to East St. Louis, and the carload of oil was delivered to a switching road, we will say the Chicago Terminal Transfer

Railroad at Whiting, with shipping directions naming the Illinois Central as the route to East St. Louis, or the Illinois Central and its connecting line (if it did not have a line there), and the railroad gave a receipt containing the same data, the number of the car, the
12128 description of it; that is, the weight, and the consignee at East St. Louis, and the route, but named no rate; and the Illinois Central received that car at Riverdale, the junction of the Chicago Terminal Transfer, and carried it from Riverdale through Illinois, through to East St. Louis on to its connection with a line that ran into East St. Louis. Would you regard that as an interstate shipment that the Illinois Central tariff would have to be filed for, or would you carry it on your local rate?

Mr. KELLOGG. That is objected to.

A. If there was no through rate we would carry it at its local rate.

Q. You mean by local rate, of course, a rate made by the different connecting carriers, and, if interstate rate, then that that should be filed with the Interstate Commerce Commission?—A. Certainly.

Q. Supposing the Chicago Terminal Transfer, the initial carrier, carried for an arbitrary, say of $3.50 or $5 per car, from the point of shipment at Whiting over to Riverdale, what rate do you think the Illinois Central might apply from there to East St. Louis?—A. The tariff.

Q. Its own tariff?—A. Yes, sir.

Q. Would you think that tariff need be filed with the Interstate Commerce Commission?—A. No, sir.

Q. It might apply its own State tariff?—A. It is a switching rate up to that. That is, as I understood Mr. Kellogg. Of course those rules have been modified. Switching tariffs are now obliged to be filed with the Commission. I have not kept in touch with that.

12129 Q. You may assume that the switching tariff, from Whiting to Riverdale, was filed with the Commission.—A. And no other through rate shown?

Q. No through rate shown; just the $3.50 or $5 a car.—A. The Illinois Central would bill at its local rate.

Q. Do you regard a through bill of lading as issued by an initial carrier and naming a rate or rates through to destination as a contract between that carrier and the shipper for that rate through to the destination that is named?—A. Yes, sir.

Q. Suppose it didn't name any rate at all in the paper that it gave, would you regard that as a through bill of lading?—A. It would be a through bill of lading for the property to destination, yes, sir.

Q. Supposing it merely named the property, and the route which the shipper gave to the carrier; you would not regard that as a contract for a rate through to destination if it did not name any rate, would you?—A. If there was no rate through. You didn't ask me in the previous question about a rate.

Mr. KELLOGG. No, he asked you about a contract of through shipment. You would not regard that as a through bill of lading, would you?

WITNESS. I would call it a through bill of lading, but there is no rate given.

Q. Doesn't a through bill of lading name a contract for a rate?—A. Not always.

Q. A through rate?—A. Not always.

Q. What is a through bill of lading?—A. A bill of lading
12130 is frequently issued so as to protect the bankers. The bankers may have advanced money on a certain carload of goods. The bill of lading protects the banker, and is subject to draft.

Q. It calls for the stuff?—A. Yes.

Q. The delivery of the bill of lading.—A. But bills of lading generally have through rates shown, in nine cases out of ten.

Q. A bill of lading is a receipt that the initial carrier gives the shipper?—A. Frequently the local agent will give a shipper a receipt and he will take it to some office and get a bill of lading and surrender that receipt. That is frequently done. The receipt would not be negotiable, but a bill of lading would be.

Q. How do they differ in terms?—A. Very little. The receipt shows that the local agent has received the property for destination. The local agent generally puts on a through rate. The bill of lading will show that through rate.

Q. What is the difference in the terms between a receipt and a bill of lading? You say one is negotiable and the other is not?—A. Well, I don't know. I have not been posted as regards bills of lading lately.

Q. You would not regard that receipt as a bill of lading, would you?—A. No, sir; that is merely a receipt for the property.

Q. In answer to Mr. Kellogg here you have not undertaken to say—or what is the fact about that?—as to whether in the case I supposed, supposing a belt line running from Whiting,
12131 out around Chicago, like the Chicago Terminal Transfer Railroad, which starts at South Chicago in the city of Chicago and then runs out into Indiana, to Whiting, East Chicago, Hammond, and perhaps other points, and then crossing the Illinois Central at Riverdale, and further west crossing other lines, around to Mayfair on the north, where it strikes the Chicago, Milwaukee & St. Paul and the Northwestern; and a carload of freight is delivered to that road at Whiting in Indiana and transported by it for its per car rate, which is known, I think, as an arbitrary, around to a connecting carrier, we will say at Riverdale, where it crosses the Illinois Central at Riverdale, or at Chappell, where it crosses the Alton, and it receives it under shipping directions containing no rate, and it gives a receipt or other paper, call it a bill of lading or anything else, which contains no rate unless its own; it charges its filed and published tariff rate, and it delivers the car say to the Alton at Chappell, with shipping instructions perhaps shown upon its own waybill, and is

waybilled by the Alton to East St. Louis. What rate, according to your practice and according to what you deem to have been the lawful rate, would the Alton charge from Chappell?

Mr. KELLOGG. That is objected to as incompetent.

A. Their local rate.

Q. Their own local rate?—A. Their own local rate.

Mr. MILLER. Isn't this what you cross-examined him on?

Mr. KELLOGG. Well, I have a right to object to it.

Mr. MILLER. I am clearing up your cross-examination, Bro. Kellogg. I am making it clear.

12132 Q. It would charge its local State rate for its transportation in Illinois from Chappell to East St. Louis?—A. Charge whatever tariff it has in effect from that station.

Q. Although not filed with the Interstate Commerce Commission?—A. Why, it is purely a State rate.

Q. Supposing it had a rate from Chicago to East St. Louis of 6 cents per hundred pounds, in carload lots, and it had filed an application sheet tariff with the Interstate Commerce Commission stating that its Chicago rate would apply to Whiting or other points. Would you say that it could apply its Chicago 6-cent rate to Whiting?—A. If that request was filed with the Commission.

Q. The application sheet tariff was filed with the Commission?—A. The application sheet tariff shows that its rate from Whiting to East St. Louis would be 6 cents. That would be the way I would look at it.

Q. You would say that under that the Alton might absorb the switching charge from Whiting?—A. If they make a rate of 6 cents from Whiting to East St. Louis?

Q. No; from Chicago to East St. Louis.—A. They have got to get that switching rate.

Mr. KELLOGG. They have got to show the rate they shipped from Whiting to East St. Louis, haven't they?

WITNESS. They lodge with the Commission that they are going to make that rate of 6 cents from Whiting. They have got to assume that switching.

Mr. KELLOGG. And the tariff filed with the Commission must show that 6-cent rate?

12133 WITNESS. A 6-cent rate, and it is nobody's business how that rate is divided.

Q. That is not what I am asking you, Mr. Tucker.—A. Excuse me.

Q. Have you ever seen the application sheets of the Alton road?—A. No, sir, I have not.

Mr. KELLOGG. In other words, if they use the rate of 6 cents from Whiting to East St. Louis, it has got to be filed with the Commission.

WITNESS. I understood Mr. Miller to make that point, that they made a request with the Commission. That is my understanding of the question.

Q. I show you an application sheet such as I refer to. [Handing paper to witness.] Have you read that?—A. Yes, sir.

Q. Are you familiar with those application sheets?—A. No, I am not.

Q. You did not use any in your railroad?—A. Application sheets?

Q. Yes.—A. No. These have all come in since my time on the Illinois Central. They come in here and reach points that are purely local to the Illinois Central, Kensington and Pullman.

Q. Now, supposing the Alton road under that application sheet absorbed the filed and published arbitrary charge for switching from Whiting over to Chappell, and received the car at Chappell and carried it on its line to East St. Louis, what would you say as to its right to apply the local rate from Chicago to East St. Louis

12134 to that transportation?—A. From Whiting?

Q. From Whiting. It pays the filed and published rate of the carrier.—A. Under that ruling it would have the right to.

Q. It would have the right to?—A. Yes, sir.

Q. What would you say as to the right of the Alton, receiving a carload of freight at Chappell and carrying it to East St. Louis, which carload had started at Whiting, consigned to East St. Louis and received by the Alton over the Belt Line, applying such rate for its transportation as it had fixed in Illinois according to State tariffs?—A. Whatever rate was in effect from Chicago it would apply from Chappell to East St. Louis.

Q. And under that application sheet you would say that the Alton absorbed the switching charge?—A. Making the same rate from Whiting it would absorb that switching; that would be my understanding of it.

Q. To return to tariff 14. That tariff was the tariff of the railroads named upon it?—A. Yes, sir.

Q. Agreeing to that tariff as members of this association?—A. They all either attended in conference or concurred in the changes.

Q. And the result of the tariff was the agreement of the railroads to the making of that tariff?—A. Yes, sir.

Q. Now, some of these railroads, the Chicago, Milwaukee & St. Paul, the Chicago & Northwestern, and the Wisconsin Central, extended into Wisconsin, didn't they, and took it between Chicago and Milwaukee or Watertown or both?—A. They brought it via Chicago.

12135 Q. And the other roads, namely, the Atchison, the Alton, and Chicago, Burlington & Quincy, the Chicago & Eastern Illinois, the Chicago, Rock Island & Pacific, the Illinois Central, and the Wabash, either had lines direct from Chicago to East St. Louis, for instance, the Alton, the Wabash, perhaps the Burlington——A. The Burlington.

Q. Or else had, with other lines named hereon, in connection with whom they ran, lines to St. Louis, for instance, I think, the Chicago & Eastern Illinois in connection with the Big Four, namely, the Cleveland, Cincinnati, Chicago & St. Louis——A. I think at that time the Chicago & Eastern Illinois had pretty nearly a line of their own into East St. Louis.

Q. If not, they had with the Big Four.—A. With the Big Four.

Q. And the Illinois Central with the Vandalia, in 1899?—A. Yes, sir.

Q. Now, these lines carried on transportation of property received in Chicago and destined to East St. Louis, didn't they?—A. All of them.

Q. Competitively?—A. Strongly.

Q. These lines were strongly competitive, were they?—A. Yes, sir.

Q. At the time this tariff was made?—A. Yes, sir.

Q. And have been ever since?—A. Yes, sir.

Q. On all business?—A. Everything.

Q. Extending from Chicago to East St. Louis?—A. Yes, sir.

Q. And the common points taking East St. Louis rates?—

12136 A. East St. Louis rates.

Q. And the points taking Chicago rates?—A. Yes, sir.

Recross-examination by Mr. KELLOGG:

Q. Mr. Tucker, as I understand you to say, if the 6-cent rate from Chicago to East St. Louis was made to apply to Whiting, it must be shown on some document filed with the Interstate Commerce Commission?—A. I should say yes.

Q. Now, I show you application sheet I. C. C. No. 1203, together with the I. C. C. 981, which you had before, and a letter of the Interstate Commerce Commission auditor to Mr. Wann in reference to 981. I wish you would look at those documents.—A. (After looking at the documents.) Mr. Wann takes the same view that I have.

Q. Then, as I understand you, the document filed with the Commission must show what the rate from Chicago to East St. Louis is, which is made applicable to Whiting?—A. I think I answered that in a question that Mr. Miller asked me. If the Chicago & Alton should make an application to put the Chicago rates into effect at Whiting and assume the switching, could they make Chicago rates apply?—I said yes.

Q. But the application sheet must show what the rate is that is applied, must it not?

Mr. MILLER. Now, understand the question, Mr. Tucker.

Q. The application sheet must show what rate is applied, so that a man looking at the application sheet could find out whether it was a 6-cent rate or a 26-cent rate?

12137 Mr. MILLER. Now, supposing you put the whole question to him, Mr. Kellogg.

A. I don't know how the Chicago & Alton would handle that in their office.

Q. Now, look at that I. C. C. No. 1203. What is this list of tariffs attached?—A. They are, all of them, foreign to me, except the top one. Every one of them is foreign to me. There is one there which is local. I don't know what that means. That would be in Kansas.

Q. Tariff 24?—A. 24.

Q. That means, does it not, that tariff 24 is, in connection with the top part of that, made applicable to Whiting?

Mr. MILLER. Let the witness state, and do not lead him on that.

Mr. KELLOGG. I have a right to lead the witness on cross-examination.

Mr. MILLER. You haven't a right to lead him on new matter. This is new matter. I didn't ask him about that.

Mr. KELLOGG. You asked him in regard to these application sheets.

Mr. MILLER. Suppose you put the question directly to him, including the whole question, as to whether the rates from Chicago under the tariff which named Chicago rates from Whiting to East St. Louis—commodity rates—would apply under that application sheet.

WITNESS. I don't know how the Chicago & Alton handled their business. I could not answer for the Chicago & Alton.

Q. One moment. That application sheet makes that tariff
12138 No. 24, which names rates from Chicago to East St. Louis, applicable to Whiting, does it not?

Mr. MILLER. I object to that as leading and not cross-examination.

A. Whiting appears there.

Q. Yes, sir.—A. But whether it is covered by a subsequent or previous sheet I could not answer for the Alton road.

Q. Well, the Alton road is a party to this.—A. I see they are, and they issue it.

Q. The Alton road is a party to tariff 24?—A. Yes; they are one of the factors in tariff 24.

Q. Then, doesn't that application sheet make that tariff applicable to Whiting?—A. I would not be willing to answer that question.

Q. You don't know whether it does or not?—A. I would not be willing to answer that question.

Mr. MILLER. Supposing they had an existing rate in from Chicago to East St. Louis, would it be applicable to Whiting under that application sheet?

WITNESS. Not necessarily. I don't know how the Alton handle it.

Q. Well, you are not familiar with this system of——A. No; I said so on the start.

Mr. MILLER. You did not have any application sheet in your time?

WITNESS. No, sir; our skirts were clear.

Q. Now, coming back to the question of a bill of lading. As I understood you to say to Mr. Miller, you understand a through
12139 bill of lading, whether it names a rate or not, running over two or more lines of road, to be a contract for through shipment.

Mr. MILLER. He didn't state that. He said where it was a contract for the rate, if it named the rate.

A. If the bill of lading shows a through rate to destination there is some authority given that agent for issuing that bill of lading and rate.

Q. That is not the question I asked you. Is a through bill of lading, whether it shows a rate or not, a contract for through shipment?

Mr. MILLER. I object to that as a pure question of law.

A. I would not be able to answer that question.

Q. I understood Mr. Miller to ask you if a through bill of lading was given from Toledo, we will say, to East St. Louis, over the Lake

Shore & Michigan Southern road and the Illinois Central road, if you accepted the freight for transportation, that was a contract for a through shipment?—A. As I say about a bill of lading, unless a through rate is shown, the second line outside of the initial line does not know the bill of lading has been issued.

Q. Well, it is a contract, is it not?—A. It may be a contract on the part of the line that originated the freight, but you can not hold the other lines.

Q. Not if he didn't know anything about it. But suppose he has a uniform system of accepting shipments of that kind, by through bills of lading, that is a contract then for a through shipment, isn't it?—A. It is a contract for taking the shipment.

12140 Q. Suppose you continuously, right along, month after month, accept such shipments under through bills of lading, knowing the fact that they have been issued?—A. I do not believe that would occur.

Q. Well, whether it would occur or not, that is not the question.—A. I would face it when it occurred.

By Mr. MILLER:

Q. Did you know William Campbell, who was the general freight agent of the Chicago & Eastern Illinois Railroad——A. Very well indeed, sir.

Q. In 1898 and in 1901?—A. Yes, sir.

Q. Did you know S. J. Cooke, who was assistant general freight agent?—A. Yes, sir; he was chief clerk in my own office.

Q. Do you know the handwriting of Mr. Campbell—his signature—and of Mr. Cooke?—A. Well, I have had it a great many times.

Q. You have had correspondence in which those——A. Yes; he being a member (of the Traffic Association) I would get frequent applications from him.

Q. I show you a paper and ask you whether you can tell whether the signature to that is the signature of Mr. Campbell who, at the date of that letter, was the general freight agent of the Chicago & Eastern Illinois Railroad?—A. It looks like his handwriting to me.

Q. Would you say that it was his handwriting from your acquaintance with his handwriting?—A. I would not swear to it, but from my acquaintance with his correspondence I would say yes, he signed that letter.

12141 Q. In your opinion, that is his genuine signature. Do you know the handwriting of Mr. S. J. Cooke?—A. I used to see S. J. C.; that is all I know.

Q. Look at the handwriting at the foot of the document I show you.—A. That is Cooke there, and that is Cooke there. [Pointing.]

Q. Would you say that is the handwriting of Mr. S. J. Cooke?—A. Yes, sir; S. J. Cooke.

By Mr. KELLOGG:

Q. Did you ever see Mr. Campbell sign his name?—A. Mr. Campbell; no, sir.

Q. You don't know, then, of your own knowledge, whether that signature is Mr. Campbell's or not?—A. I won't say that he signed that letter. I say I recognize that as a handwriting of his, but I would not say that he signed that letter.

Q. You have seen the writing?—A. Oh, I have seen it so frequently that that would seem to me as though he signed it.

Q. Do you know that these other two were signed by S. J. Cooke?—A. Only so far as I recognize his handwriting. I was not present when he signed them.

Q. Have you seen Mr. Cooke sign his name?—A. Oh, yes; lots of times.

Q. You think that that signature of William Campbell was written by Mr. Cooke, do you?—A. Yes, sir; I do. I think the same of Mr. Campbell's.

12142 By Mr. MILLER:

Q. You have corresponded with Mr. Campbell and received letters from him?—A. A great many times; yes, sir.

Q. You have received letters from him upon which you and he have acted?—A. Yes, sir.

Q. And you would say that this is his signature?—A. To the best of my knowledge and belief he signed that letter.

Q. You have seen Cooke write often?—A. I have seen Cooke write often, because he was a clerk in my office, and I have seen his handwriting as general freight agent of the Eastern Illinois.

Q. You are familiar with it?—A. Yes, sir.

Q. And you would say the handwriting "William Campbell, S. J. C." was the handwriting of Mr. Cooke on the two letters shown you?—A. I have seen it so often that I should say yes to both of them.

Mr. MILLER. I would like to offer in evidence the documents that Mr. Tucker identified as exceptions to tariff 24, and, with the consent of counsel for the Government, I will put one in as illustrative. I think perhaps it shows for all fairly well what we want to show.

Mr. KELLOGG. What do you want them in for?

Mr. MILLER. It shows the way it is done, and the rates. This may be marked as an exhibit.

(The paper was marked "Defendants' Exhibit 223.")

12143 Mr. MILLER. Now, I ask that the three letters referred to and identified by the witness as containing, respectively, the signature of William Campbell by himself on one, and "William Campbell, S. J. C.," on the other two, be marked for identification.

Mr. KELLOGG. Which one did you offer?

Mr. MILLER. I do not offer these at present. I will have them marked for identification so as to identify them with the witness' testimony.

(The papers were marked "Defendants' Exhibits 224, 225, and 226" for identification, respectively.)

(The hearing was here adjourned until the morning of Monday, November 16, 1908, at 10.30 o'clock.)

12144 ROOM 515, CUSTOM-HOUSE, NEW YORK CITY,
Monday, November 16, 1908—10.30 a. m.

The hearing was resumed before the special examiner Hon. Franklin Ferriss, pursuant to adjournment, at the above time and place.

Present on behalf of the petitioner, Mr. Frank B. Kellogg, Mr. Charles B. Morrison. On behalf of the defendants, Mr. John S. Miller, Mr. Chauncey W. Martin, Mr. F. L. Crawford and Mr. W. Cleveland Runyon, Mr. Douglass Campbell.

JOHN PAGE, called on behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Mr. CRAWFORD:

Q. Mr. Page, where do you live?—A. I live in Oil City, Pennsylvania.

Q. What is your business?—A. Civil engineer.

Q. Where were you graduated?—A. Cornell University.

Q. What year?—A. The year 1880.

Q. And in what course there?—A. Civil engineering.

Q. You took the degree of civil engineer, did you?—A. Bachelor of civil engineering.

Q. Have you since followed the profession of civil engineering?—A. Ever since.

Q. In connection with what particular line of work chiefly?—A. Chiefly with pipe-line work.

12145 Q. Are you familiar with the construction of pipe lines?—A. Yes, sir.

Q. And with the various problems that grow out of the maintenance and handling of pipe lines?—A. Yes, sir.

Q. To what extent, geographically considered, have you been connected with pipe-line work?—A. I have been connected in Pennsylvania, Ohio, Indiana, and for a time in California.

Q. Now, I wish you would state in a general way, as briefly as you can, what a pipe line is; in respect to the number of pipes, the size of the pipes, the complexity, etc.—A. Why, in the oil business we have pipe lines usually from 2 to 12 inches in diameter, and there are practically all intermediate sizes; you might say 2, 3, and 4 (very little 5-inch pipe), 6, 8, 10, and 12.

Q. You mean interior diameter, do you?—A. That is interior diameter; yes, sir.

Q. What is the occasion for these different diameters?—A. It depends on the amount of business—the amount of oil we wish to pump through. Of course the larger the volume of oil the larger the pipe line has to be to do the work.

Q. Are there any other reasons than the amount of oil—the amount of business—which determine the diameter of the pipe?—A. That is about the only reason.

Q. How about the question of grade?—A. Of course that would make some difference if it was on a gravity line, but on pumping lines or discharge lines, where it is forced through by a pump, why

we know what the pump will do and what the capacity of the
12146 line is, and we have to calculate a line large enough to do our work under the conditions given us.

Q. Isn't it a fact that when you go up a steep grade you are inclined to use pipes of a smaller diameter, and, on the other hand, going down the grade that you use a little larger diameter?—A. It is just the other way to, if anything.

Q. Then state how it is.—A. I could probably illustrate it better than I could describe it.

Q. You will have to describe it as well as you can.—A. Suppose you are going over a mountainous country, and suppose the first part of the line is quite a flat grade, as we term it; there is not very much fall in it; and then suppose at the far end of that there is a steeper grade goes down. Now, in the flat grade the pipe is full of oil, but when it goes down on the steeper grade, the pipe line is partially empty. Then, as the business increases——

Q. One moment. What will be the approved method of constructing the line on the down grade as compared with the line on the level? Will there be fewer or more pipes? How about that?—A. There will be fewer pipes, because the pipe has a greater capacity with a larger fall.

Q. That is, the gravity takes it out of the way quicker?—A. Yes, sir.

Q. The speed is greater on the down grade?—A. The speed is greater; yes, sir.

Q. You were going on to say something else when I interrupted you.—A. What I was going to say was this: If our business increased, and we had to enlarge that line, we would naturally
12147 enlarge it on the flag grade, because it has less capacity than it has on a steeper grade.

Q. The result of this is, is it not, in numerous instances, that where you have several pipes paralleling each other they are of different calibres, different diameters?—A. Yes, sir; different diameters.

Q. And is it not a fact that at parts of the line, whether owing to steeper grade or otherwise, the number of pipes you have is fewer than the number on the level or on the down grade?—A. Yes, sir.

Q. So that the net result on a long pipe line is, is it not, that at different sections of the line you have very different numbers of pipes, and that there is a considerable difference in the calibre of pipes used?—A. Yes, sir.

Q. And it often happens that you have, along in the same stretch, pipes parallel to each other at different diameters. Is that not true?—A. Yes, sir.

Q. Now, where you change from one series of pipes, such as you describe, to a different series of pipes, that is to say, if I may use the illustration (not intending it as evidence at all), suppose you had six pipes of a certain diameter, or of different diameters, with a certain

grade, and then, owing to the change in the grade, you could reduce that number to three——A. Yes sir.

Q. ——such a thing is possible, is it not?—A. Yes, sir; we do make those changes.

Q. Now, in such a case as that, what would happen at the point of junction in respect to the oil from the six pipes
12148 coming together before it enters the three pipes?—A. There would have to be a mixture there. It would all come together.

Q. That is, it would all come together?—A. It would all come together at that junction point.

Q. Just exactly as if there was a tank there into which it flowed?—A. Well, yes; I would hardly make it like a tank. Those six streams would come together there and form three streams.

Q. Well, they would all come together, at any rate?—A. They would all come together.

Q. There would be free intercommunication between them?—A. There would be free intercommunication between them.

Q. So that would continue to repeat itself at various points throughout the line from one terminus to another, would it not?—A. Yes, sir.

Q. Now, how is oil piped through any pipe line? What makes it go through?—A. Pressure is used to put it through. The first is gravity. If we have one point higher than another, of course we have pressure there due to gravity. Then if we want to get it through faster, suppose our pipe line is very long, then we have to put in a pump so as to put pressure on that to force it through.

Q. The gravity only works on down grades, doesn't it?—A. Yes, sir.

Q. So that wherever there is an up grade, or wherever there is a level, it has to be pumped, hasn't it?—A. Yes; it has to be pumped.

12149 Q. Now, suppose your line is full of oil, how will you get that oil out at the other end?—A. Why, it is directed into a tank.

Q. Yes; but what makes it go through the line?—A. It is the force of the pump—the plunger of the pump.

Q. The mere pump does not get the oil out of the line, does it?—A. Oil is just like water in that it is practically inelastic, and as the plunger goes forward it displaces a certain amount of oil. That is, it pushes the oil forward.

Q. Pushes it through with what?—A. With the force of the steam that runs the pump.

Q. Doesn't it push it through with other oil?—A. Yes, sir; it is continuous. The line is full of oil.

Q. The line being full of oil, the only way you can get that oil out of the line is by pumping other oil in?—A. Yes; I did not understand your question.

Q. In other words, it is a continuous process?—A. Yes, sir.

Q. You could not get the oil through that line——A. No, sir; not without other oil.

Q. If you stop the supply of oil, you could not pump air in there, or anything like that?—A. No, sir.

Q. In other words, you have got to keep pushing the oil that is in the line through and out by other oil. Is that so?—A. Yes, sir; it is a continuous process to get it out.

Q. How far will the force imparted by one pump or one set of pumps carry oil?—A. Oh, you might say there is no limit, as far as that is concerned——

Q. In practice?—A. In practice they go anywhere from
12150 30 to 50 miles.

Q. Then, what happens at the end of the 30 or 50 miles?—A. Why, they start the process over again.

Q. That is, you have to put in more pumps?—A. We put in more pumps.

Q. What do you have to do at the 30 or 50 mile point, as the case may be?—A. We have oil tanks to receive this oil from the preceding section, and then we have another station again and start the operation over again.

Q. Now, that place where you have the pumps and where you have the tanks is called a station?—A. Is called a pumping station.

Q. And you have those pumping stations at frequent intervals along the pipe line?—A. Yes, sir.

Q. Their purpose being, as you say, to receive the oil from the last stretch of pipe line and to impart to it a new impetus, to send it along the next stretch?—A. Yes, sir; and to be repeated again.

Q. What determines the selection of the points where those stations are?—A. Why, we have, of course, to equalize our distances, because we try to get it so that one station can do the same amount of work as another station. Otherwise—it is just like a chain. If we have a station overworked, if it had to do too much, the others must slow down to it.

Q. I suppose the nature of the ground, the topography, affects it somewhat?—A. Topography affects it somewhat.

Q. It is harder to pump over mountain chains than along the level, of course?—A. Why, that has to be considered, too.

12151 Q. And then does the question of fuel enter into the determination of the points somewhat?—A. Somewhat; yes, sir. If we can possibly do so, we try to locate on a railroad and also on a stream.

Q. Where you can get coal and water easily?—A. Yes, sir; water and coal.

Q. Have you given attention to the subject of contamination or the mixture of oils flowing through pipe lines?—A. Yes, sir.

Q. Have you given considerable attention to it?—A. Why, yes; more or less considerable attention for quite a number of years.

Q. Is that one of the problems that practical pipe-line men have to consider frequently?—A. Yes, sir.

Q. It is one of the things entering into their daily work, isn't it?—A. Yes, sir.

Q. Have you also given consideration to it from the engineering standpoint?—A. Yes, sir.

Q. Now, will you state briefly, before I ask you about the particular determinations which you have made, what are the general causes of contamination of oil or the mixture of oils in a pipe line.—A. The principal one is on account of the difference of velocities in the cross-section of a pipe line. In other words, there is more friction of the oil against iron than there is of the oil against itself.

Q. Now, wait a minute; let us get that clear. You are referring to pipes of different sizes?—A. Pipes of different sizes, or any size, as far as that is concerned.

Q. Go on.—A. We find generally that the velocity in a
12152 pipe line is at its maximum near the center of the pipe, and it is less and less as it approaches the inside shell of the pipe, just because the friction there is greater.

Q. You are speaking now of a single pipe?—A. Of a single pipe.

Q. And you say that the velocity is greatest toward the center?—A. Generally towards the center.

Q. Unless as you approach the sides?—A. Yes; and much less at the sides.

Q. And where is it least?—A. On the side, just close to the shell of the pipe.

Q. Is there anything new or revolutionary in that statement as a scientific statement?—A. No, sir. There is nothing but what has been known for years by all hydraulic engineers.

Q. Does it apply to other fluids than oil?—A. Yes, sir; water or any other liquid.

Q. How long has it been known as applied to water?—A. Oh, I suppose for over a hundred years; maybe one hundred and fifty.

Q. Has it also been shown to apply to gases?—A. Yes, sir.

Q. The principle is then, is it, that in fluids passing through a pipe, the rate of speed of a fluid in the interior portion of the pipe is greater than it is nearer the shell?—A. Yes; that is, nearer the outside of the column of fluid.

Q. Is that right?—A. Yes, sir.

Q. That is the general principle?—A. That is the general law of it.

Q. And it depends upon that general law, as I understand you, that this mixture of oil takes place?—A. Yes, sir; that is
12153 one of the causes.

Mr. KELLOGG. He has not——

Mr. CRAWFORD. At least that is what we propose to prove in detail. (To the witness.) And that is what I understand you to mean?—A. Yes, sir; that the mixture is due to that—by the greater velocity in the central portion of the pipe over that just inside the shell of the pipe.

Q. So far as applies to water, is that a matter that has been set forth in learned books?—A. Yes; you will find it in almost any text-book on hydraulics.

Q. Is there any doubt at all entertained among scientific men as to its correctness, as applied to water and gas, at any rate?—A. No doubt at all.

Q. Now, assuming for the moment that that has been established (we will establish it in detail in a short time), state the other or any other general cause for mixture of oils in a pipe line.—A. The next cause would be where we have parallel lines, or what we term "loops." Now if a loop is of a different diameter than the main line the velocities through the different ones (as the main line and the loop) will vary.

Q. One moment. It does not make any difference, does it, whether it is a loop or a parallel line?—A. Or a parallel line. A loop is a parallel line for a short distance.

Q. But not all parallel lines are loops necessarily?—A. No, sir.

Q. The point you wish to make then is, you are speaking now of the different rates of speed in parallel lines of different diameters?—A. Yes; of the same system.

12154 Q. Very well, go on.—A. Now, to give an illustration, suppose we have a 6-inch line through, and we find——

Q. You mean a 6-inch line or a 6-inch pipe?—A. A 6-inch pipe line through. Suppose now on the flat grade I mentioned some time ago we find we have got to increase our capacity. We go of course to that flat grade to increase it, and we put in, say, an 8-inch line.

Q. You mean in addition to the 6-inch line?—A. If we want to increase our capacity we put in an 8-inch line in addition to the 6-inch line.

Q. I wish you would not use the word line where you mean a single pipe. It may be perfectly correct. I am not a pipe-line man, but it will make it much clearer if you will use the word line as applying to the whole structure——A. All right.

Q. ——and the word "pipe" when you mean a single pipe?—A. Yes.

Q. Now, as I understand you, you are talking about a state of things where you have a single 6-inch pipe and a single 8-inch pipe——A. Yes, sir.

Q. ——side by side?—A. Yes, sir; but joined together.

Q. Joined together at each end?—A. Yes, sir; at each end.

Q. And running parallel?—A. Running parallel.

Q. Now go on with your illustration.—A. The velocity of a liquid through the 8-inch pipe is greater than the velocity of the same liquid through the 6-inch pipe.

Q. Confine the statement to oil, won't you?—A. Yes.

Q. Is that true of oil?—A. That is true of oil or any liquid.

12155 Now, when it gets through at the far junction, where the two lines come together, the liquid would reach the junction in the 8-inch pipe sooner than it would in the 6-inch, and of course in

the 6-inch it would lag back. Now, if we had two different oils going through, for instance say white and black, and suppose we put the white oil in the 8-inch line and black oil in the 6-inch line, the white oil would get to the far junction in much less time. It would entrap, so to speak, a part of the black oil in the 6-inch line before it could get there.

Q. With which oil are you supposing that the line is filled before you start?—A. Well, it could be filled with black oil.

Q. Suppose it is filled with black oil?—A. Yes.

Q. And then you proceed to pump white oil in?—A. Yes.

Q. Into both pipes?—A. Well, it is better to say we have got some other oil than white or black in front of these. It does not make any difference what color it is.

Q. Now, let us see. What oil is your pipe line supposed to be filled with?—A. Supposed to be filled with black oil.

Q. And then you proceed to pump in what?—A. White oil.

Q. Into both pipes?—A. Into both pipes.

Q. Behind the black?—A. Behind the black.

Q. And that goes simultaneously into the 6-inch pipe and the 8-inch pipe?—A. Yes, sir.

Q. Now, what is the difference in the rate of speed per mile of oil in an 8-inch pipe and in a 6-inch pipe?—A. The speed is
12156 approximately about 16 per cent faster in an 8-inch pipe than it is in a 6-inch pipe.

Q. That would amount to about what in feet to the mile?—A. Eight or nine hundred feet.

Q. Then, if I understand you, at the expiration of the first mile the state of things would be this: the column of white oil would have pushed out the black oil in the 8-inch pipe?—A. Yes.

Q. The column of white oil in the 6-inch pipe would be 800 feet behind the column in the larger pipe?—A. Yes, sir.

Q. That is to say, it would have lost 800 feet in that mile?—A. Yes, sir.

Q. Now, is that condition progressive? Does it continue mile after mile?—A. Yes, sir; it continues mile after mile.

Q. Now, suppose your two pipes were ten miles long; that is to say, that the 8-inch pipe and the 6-inch pipe run parallel in the way you have described for ten miles, just for convenience as an illustration. That is nothing extraordinary is it?—A. No.

Q. That might frequently happen, might it not?—A. Longer than that, sometimes.

Q. Now, when the white oil in the larger pipe gets to the end of the ten miles, how far back would the white oil in the smaller pipe be?—A. It would be some 8,000 or 9,000 feet back.

Q. Call it 8,000 feet. That is rather more than a mile and a half?—A. Yes, sir.

Q. Then, at the expiration of the ten miles, at the junction the oil pouring out of the two pipes comes together, does it not?—A. Yes, sir.

12157 Q. Now, as the white oil pours out of the 8-inch pipe, what kind of oil would be coming out of the 6-inch pipe?—A. Why, the black oil yet.

Q. The black oil would be coming out?—A. Yes, sir.

Q. And of course the black oil and the white oil would be mixed?—A. They would be mixed right there.

Q. How long would that mixing process continue?—A. Until you got the 8,000 feet.

Q. In other words, until the column of white oil in the small pipe had progressed through the last 8,000 feet?—A. Yes, sir; and reached the junction.

Q. So that for the period, whatever it was, that it took the 8,000-foot column to run through the small pipe, this process of mixing would be going on between the black oil and the white oil. Is that what you mean?—A. Yes, sir; that is what I mean.

Q. Then, after the white oil had progressed through both pipes, and was continuously flowing through both pipes, you would have this state of things, would you not: You would have a certain quantity of pure black oil in the front?—A. Yes, sir.

Q. You would have a certain quantity of mixed white and black oil in the middle?—A. Yes, sir.

Q. Then behind that you would have pure white oil?—A. Yes, sir.

Q. And the amount of the mixture of white and black oil, so far as this cause was concerned, would depend upon the length of time, or depend in part upon the length of time, that it took the 12158 column of oil in the smaller pipe to overcome the difference in speed?—A. Yes, sir.

Q. Now, is there any other general cause of mixture besides these two that you have mentioned?—A. Why, yes; there would be. Where we receive oil in tanks, there would be more or less mixture there.

Q. Where you would receive oil in tanks?—A. If we pump from the first station to the second station, we receive that oil into what we call working tanks. Now, if there happened to be some other kind of oil there, there would be a mixture there. And then there is still another one. Our pipe lines are not quite smooth. We have little pockets right along at each junction and each joint, and the little pockets are filled with preceding oil, and the following oil washes that out.

Q. That is one of the minor causes, is it?—A. That is one of the minor causes; yes.

Q. And I suppose the fact that the interior of the pipe line may not be clean would be something?—A. That would be something. It would have to be washed out.

Q. But the main causes are the first two you mention?—A. The main causes are the first two I mentioned.

Q. Have you conducted any experiments to determine whether the general law which you stated in regard to the different rates of speed of parts of a column of liquid in a pipe applies to oil?—A. Yes, sir.

Q. In order to determine how much it was, did you measure it?—A. Yes; we made experiments to find out just what the velocities were.

Q. And also as to the extent of the mixture?—A. Yes, sir.

12159 Q. Who conducted those experiments?

Mr. MILLER. You are speaking now of the mixture in the same pipe?

Q. I am speaking now of the mixture in the same pipe.—A. Yes, sir; that is what I understood, the mixture in the same pipe.

Q. You are not now referring to the mixture in parallel pipes?—A. No, sir.

Q. Purely the mixture that might arise in a single pipe?—A. In a single pipe; yes, sir.

Mr. MILLER. In sending one kind of oil after another?

Q. Mr. Miller suggestes that this relates to the sending of one kind of oil behind another?—A. Well, to get the velocities, we made our experiments with just one kind of oil passing through. What we wanted to determine was the variation in velocities.

Q. You are quite right about that, as far the velocities are concerned; but so far as your experiments in determining the amount of the mixture were concerned, they required two kinds of oil?—A. That required two kinds of oil.

Q. And it is a question in that respect of how much mixture results from pushing out one kind of oil with another kind, isn't it?—A. Yes, sir.

Q. Under all the conditions?—A. All conditions.

Q. And you did, as I understand, conduct tests also to that point?—A. Yes, sir.

Q. Who assisted you in doing this?—A. Mr. Weymouth.

12160 Q. Who is Mr. Weymouth?—A. He is associate engineer with me in the same line of work.

Q. He is a graduate of the Institute of Technology in Boston?—A. Yes, sir.

Q. Did any other engineer assist?—A. Yes, sir; in our later experiments we had Professor Schoder, of Cornell University.

Q. Professor E. W. Schoder?—A. Professor E. W. Schoder.

Q. What is his position in Cornell University?—A. I believe he has charge of the hydraulic laboratory there.

Q. Did you know him personally before you entered upon these tests?—A. No, sir.

Q. Do you know that he has ever been in any way connected with the Standard Oil Company?—A. No, sir.

Q. Do you mean that you don't know, or that he has not?—A. He has not.

Q. He has not been?—A. Not to my knowledge.

Q. And he is not now, is he?—A. No, sir.

Q. How did Mr. Schoder come to be interested with you in these experiments?—A. My attention was called to some experiments he

had made at Cornell University on the flow of water through pipes, and it was suggested that I go and see him and have him go over the experiments with us on oil.

Q. How was your attention called to his hydraulic experiments?—A. Why, there was an article in the proceedings of the American Society of Mechanical Engineers.

Q. An article by himself?—A. By himself and another professor of hydraulics in some university, I think, in Louisiana.

Q. And referring to hydraulic tests along the same line,
12161 except as applied to water?—A. Yes, sir; the tests struck me as being parallel with what we were doing ourselves.

Q. When was that?—A. Last May.

Q. And was that the first time that you knew anything about Professor Schoder?—A. The first time I knew Professor Schoder.

Q. You had never met him?—A. I had never met him before that time.

Q. Then, did you go to Ithaca to see him?—A. Yes, sir; I went to see him.

Q. Did you ask him to testify in this case?—A. I asked him to come and help us with the experiments.

Q. And that was the first time he had any connection with the case, was it?—A. The first time he had any connection with it; yes, sir.

Q. And the first time, so far as you know, that he had any connection whatsoever with the Standard Oil Company?—A. Yes, sir.

Q. And you think you do know, do you?—A. I think I do know; yes, sir.

Q. Now, coming down to the experiments which you conducted on the question of velocity in a single pipe, where did you make those tests?—A. We made one test near Franklin, Pennsylvania, probably three or four miles out of Franklin, at what we call Penn Switch, and the other tests were made at Kane, Pennsylvania.

Q. How long was the pipe which you used in the first instance?—A. In the first instance the pipe line was probably about 27 or 28 miles. We were about 24 miles from the pumping station.

12162 Q. You used a single pipe?—A. A single 6-inch pipe.

Q. 24 miles in length?—A. Well, 24 miles up to——

Q. You used 24 miles of it, anyway?—A. Yes, sir; we used 24 miles of it.

Q. You were 24 miles from the pumping station?—A. Yes, sir; almost 24 miles—just lacked a little bit.

Q. And in the other instance how long was the pipe that you used, or at least how much of the pipe did you use? Describe that.—A. I don't understand the question.

Q. At Kane.—A. We had a pipe there just at the end of the line. I suppose that length was about 30 miles. I don't know just the distance it is from Crown pumping station to Kane.

Q. How much of it was used?—A. I suppose about 30 miles of it. We got it from a gatehouse, a manifold works, where we got a stream

from there. That is a station where we have a switch into different tanks, and we switch this oil off into certain tanks, and we got at this to measure, and we tested there at Kane, on this end of the line.

Q. The second time there was about 30 miles of pipe involved and the first time about 24?—A. Yes, sir.

Q. When oil is pumped into a pipe by a pump at a pumping station or at an initial point, or at a regular pumping station, under what pressure is it introduced into the pipe?—A. Generally on a discharge line at anywhere from 600 to 800 pounds to the square inch.

Q. Now, under that method of measurement, atmospheric pressure is treated as zero?—A. Yes.

Q. So this means 600 to 800 pounds in excess of the atmospheric pressure?—A. Yes, sir.

12163 Q. What is the pressure when you come to the end of the section through which that pumping runs?—A. It is simply due to the height of oil in the tank.

Q. Don't tell me what it is due to; tell me what it is.—A. It is practically nothing—nothing up to 15 pounds there.

Q. It is atmospheric pressure, isn't it, practically, if you pump 30 miles and then discharge into a tank?—A. If the tank is empty, then it is nothing; it is atmospheric pressure; but if the tank is full, it is about 12 or 15 pounds.

Q. It is negligible, at any rate?—A. Yes, sir.

Q. So that the pressure is a descending pressure from the initial point to the end of the stretch to which you are pumping?—A. Yes, sir.

Q. Down practically to nothing at the end of it, and at the intermediate points what is the pressure?—A. Intermediate pressures.

Q. Generally speaking, at all intermediate points except very close to the terminus, the pressure would be considerable, would it not?—A. Yes, sir.

Q. That is, it would be considerably more than the atmospheric pressure?—A. Oh, yes.

Q. Now, suppose the flow of the oil through that 30 miles of pipe was suddenly checked; if the oil stood still in the pipe, the pressure being maintained at the initial point, would there be pressure felt through the pipe then?—A. Yes; if you suddenly check it, you have the pressure all through the pipe.

Q. You would have the pressure all through the pipe, and
12164 a substantially uniform pressure, would you not?—A. Uniform all the way through, provided——

Q. Now, wait a moment. Don't go too fast. You know this, Mr. Page, like the alphabet, but the rest of us don't know very much about it and we are trying to find out. There would be substantially uniform pressure all the way through the pipe if you checked the flow and it stood still, and that pressure would be the same up and down, right and left, horizontal and perpendicular, wouldn't it?—A. Yes, sir.

Q. What is that pressure called?—A. Static pressure.

Q. That substantially means standing pressure, doesn't it?—A. Yes, sir.

Q. And it is applied, as I understand, to the pressure which the column has in all directions around a certain diameter?—A. Yes, sir.

Q. Now, if your oil is standing still in your pipe the static pressure would be the same all the whole length of the 30 mile, or whatever it was?—A. I will have to modify that. It will be the same pressure if the pipe is all on a level. If we are going up on a mountain, our static pressure in the pipe will be less at the top than it will be down in the valley.

Q. Yes; of course; but supposing for simplicity that you had a perfectly straight pipe?—A. Imagine a level country; yes.

Q. Then the static pressure would be substantially the same throughout the whole length of the pipe?—A. Yes.

Q. Then if you open the further end of the pipe and let the flow continue, as I understand you, the pressure is intermediate between what you have at the beginning and nothing at the end?—

12165 A. Yes, sir.

Q. And therefore the static pressure will vary at different points along the pipe?—A. Yes, sir.

Q. But if the pipe is full, what is true in regard to the static pressure at all points of a cross section of the pipe?—A. In a cross section the static pressure is practically alike.

Q. That is, at any point in the pipe the static pressure, the pressure, in other words, resulting from the pumping forces alone, is the same up and down and horizontally, is it?—A. Yes, sir; in every way. It goes in all directions.

Q. Supposing a cross section be taken through the pipe at certain points?—A. Yes, sir.

Q. That of course will vary at different points?—A. That will vary at different points.

Q. Now, is there any other pressure that has to be taken into account when your oil is flowing through the pipe?—A. Just simply the velocity pressure.

Q. What does that mean?—A. That is pressure due to velocity or impact.

Q. That is to say, the static pressure is the pressure which would be felt, we will say, right up against the top of the pipe and against the bottom of the pipe?—A. Just as well the top, the bottom, and the sides. The static pressure is everywhere.

Q. In addition to that, if the oil is flowing through the pipe at a certain velocity, that increases the pressure wherever the impact of the oil comes. Is that what you mean?—A. No; it is different pressure; what we call the dynamic force.

12166 Q. Never mind its nature, but it is a different pressure?—A. It is a different pressure.

Q. And it is an increased pressure—that is, it has to be added to the other pressure, has it?—A. Well, the two pressures make a constant quantity. It is a pressure—if I can explain on here——

Q. No; just wait a minute. Your static pressure is one thing. Now, the total pressure which would be felt in the middle of the stream, say, where your velocity generally the greatest, as I understand you, that pressure would be the static pressure plus something else resulting from velocity, would it not?—A. Yes; well, it is this way: Suppose you put in a pressure gauge in the shell of the pipe. It would not make any difference, as long as the flow was going across, you would have simply static pressure; it would not make any difference where you inserted that pipe that goes with the gauge, you would have a certain pressure; but suppose you put a tip on this little pipe and put it up stream, then you will have the sum of two pressures—that is, static pressure and the dynamic pressure.

Q. The dynamic pressure results from the velocity?—A. Yes; from the velocity.

Q. That is what you mean. You have got pressure resulting from the two different causes?—A. Yes, sir.

Q. Now, will you explain the method usually employed, not merely in oils, but in all fluids, for measuring the velocity in a pipe through which a liquid is flowing?—A. Yes, sir.

Q. And you may describe it, if you please, with reference
12167 to these blueprints which we have.

Two figures on the blueprint are marked "Defendants' Exhibits 227 and 228."

Q. You may describe it, if you please, with reference to defendants' Exhibit 227, which I now show you?—A. Do you want me to describe it now, Mr. Crawford?

Q. Describe the apparatus used in determining the velocity of liquids, using defendants' Exhibit 227, and the drawing and letters there shown for the purpose of making your description clear.—A. Suppose now that we could insert two glass tubes in a pipe line, A and B, and we will suppose, too, that these tubes are inserted as close together as you can.

Q. You mean close laterally?—A. Close together; yes.

Q. Laterally you mean?—A. Yes; laterally. Now, suppose one tube A is pushed into the pipe, into the stream, and that it has a tip bent at right angles against the stream.

Q. The tip which is there represented by the letter P?—A. By the letter P; and the other one is just pushed inside of the pipe.

Q. That is at the point S, is it?—A. At the point S. Now, you will see the velocity of liquids flowing across the opening at S and against the opening at P. Now, in tube B, being glass, you will see that there is a static pressure; you will see the column of liquids will rise there, indicating the static pressure within.

Q. That is, what you have described as the static pressure or standing pressure——A. Standing pressure.

12168 Q.——will force a certain column of liquid up through the pipe B——A. Yes, sir.

Q. To a certain height?—A. A certain height.

Q. Which will bear some relation to the amount of the static pressure?—A. The weight of that liquid will be equal to the static pressure inside.

Q. That is, it will bear a relation to it?—A. Yes, sir; it will bear a relation to it. Now the static pressure acts on P just as it does at S, but in addition to that, we have a velocity pressure, or the impinging or impact of the successive particles of liquid against this point, and the column will go up this glass tube higher than it will up the other one.

Q. Because——A. Because you have got an additional pressure.

Q. That is to say, you have the static pressure——A. Plus the dynamic.

Q. Plus the dynamic pressure, or the pressure resulting from the impact of the particles against the tip?—A. Yes, sir.

Q. And the effect of that impact is greater as the velocity increases, isn't it?—A. Yes, sir; greater as the velocity increases. Now, we assume that tube A and tube B are close together, the static pressures are practically the same, or would be the same. Then the difference will be due to the velocity, that is, the pressure due to the dynamic force, making the difference in the heights of the two liquids.

Q. If you subtract the height of the lower column from the height of the higher column you would get the——A. You would get the column due to velocity alone, which is represented here by the letter *h*.

12169 Q. Without going into details, is that capable of measurement?—A. Yes, sir.

Q. By well-known formulæ?—A. By well-known formulæ.

Q. And convertible into terms of velocity, is it?—A. Yes, sir.

Q. Now, these tubes that are shown in Fig. 1, how are they known in hydraulics?—A. They are known as the Pitot tubes.

Q. Who is Pitot?—A. Pitot was a French engineer, who introduced this system about one hundred and fifty years ago, probably.

Q. It has been used for the measurement of water for one hundred and fifty years, has it?—A. Yes, sir.

Q. So that you have not introduced any strange or revolutionary procedure in introducing it?—A. No, sir.

Q. You simply have applied it to oils?—A. Applied it to oils. It is well known to all hydraulic engineers.

Q. If you had used two open tubes, open at the top, as shown in Fig. 1, with the pressure under which you were working, the static pressure, what height would you have had to have those tubes?—A. Why, they would be about 2,000 feet high.

Q. About 2,000 feet?—A. Yes; probably more.

Q. You found that, of course, to be impracticable?—A. Yes.

Q. And what did you do to obviate that difficulty, and how did you apply the principle of the Pitot tube to that particular problem?—A. This is shown in Fig. 2 of our blue prints, Exhibit 228, here.

Q. Describe that.—A. This is quite similar, as far as the tips are concerned, to Fig. 1, but now we introduced a heavier liquid than oil. We used water, that will go to the bottom of what we
12170 call a U tube. Now, there are two forces acting, one the static, acting through S on the top of the liquid or the water in one branch, branch S, and the other, the force acting through P on the top of the liquid in the other branch at B. Now, as the force through P is greater than the force through S, why, it forces the column of water down a little farther in the branch B than it does in the branch A. Now, we have a column of oil plus the dynamic or velocity force balancing an equivalent column of water, and from that we figure our velocities.

Q. You arrive at it, do you, by subtracting the height of the column of water in one branch of the U from that in the other branch?—A. We see the difference in the height of the two columns of water, and we get the distance between——

Q. The difference between the levels of the water in the two branches of the tube?—A. In the two branches of the tube; yes, sir.

Q. That gives you a certain amount of water which you can interpret in terms of velocity, can you?—A. Yes, sir.

Q. That is to say in fig. 2, I mean, you subtract the height of the water at B from the height of the water at A, do you?—A. Yes, sir.

Q. And that gives you a quantity which is called h?—A. h.

Q. And that you can interpret in terms of velocity, can you?—A. Yes, sir.

Q. By well-known formulæ?—A. Yes, sir.

Q. Is this fig. 2 a picture of the apparatus which you used,
12171 or simply a diagram to illustrate the principles?—A. Just a diagram to illustrate the principle.

Blueprints marked "Defendants' Exhibits 229 and 230."

Q. Now, look at defendants' Exhibit 229, which is fig. 3, and also at defendants' Exhibit 230, which is fig. 4, and describe the actual apparatus which you used, and explain it.—A. Fig. 3, Exhibit 229, represents the actual apparatus. Now the tips——

Q. Just a moment. Will you explain just what represents the pipe. That is a good starting point in this diagram.—A. The pipe in this diagram is that circle with the letter P in the centre of it.

Q. The circle around outside of the letter P represents a cross-section of the pipe?—A. A cross-section of the pipe; yes, sir.

Q. Very well.—A. Now, there is a tube P passes through—

Q. Passes through what?—A. Passes through the pipe line.

Q. No; say pipe, not pipe line.—A. Yes; passes through the pipe.

Q. Passes through the pipe from top to bottom?—A. From top to bottom, and it follows around—you follow down and up and across and down on one branch of the U-tube, and the other end of this pipe goes through this cross-section, follows up and around, down and

across on the other side and connects with the other branch of the U-tube.

Q. Now, the U-tube which you refer to, is that part of the drawing on the right-hand side of fig. 3 where the letter U appears?—A. Yes, sir.

Q. And it appears that is in two branches, just as in fig. 2, as I understand?—A. Yes, sir.

12172 Q. You mean to say that the tube that goes through the bottom of the pipe connects with one branch of the U, and the tube that passes through the top of the pipe connects with the other branch of the U?—A. Yes, sir.

Q. Is that correct?—A. Yes, sir. Now, to explain the workings of this, we will refer to fig. 4, Exhibit 230. This represents a brass tube with two openings, one, S, going through and going up, and the other, D, going through and going down.

Q. Now, just a moment. Is this brass tube in fig. 4 any part of the apparatus shown in fig 3?—A. Yes, sir.

Q. What part?—A. It is the part that is shown there in letter P, in the center, say OPO.

Q. That is the part that goes through the pipe?—A. The part that goes through the pipe.

Q. And as I understand you, it has two openings, one, which is lettered S, communicating with the interior tube that runs up there, and the other, lettered D, which communicates with the interior tube running down?—A. Yes, sir; and these openings are separated, as you will see in the drawing.

Q. You mean in the drawing fig 4?—A. Fig 4.

Q. That is defendants' Exhibit 230. All right; go on.—A. Now, this is so placed in the pipe that the fluid flows across the opening S, and gives the static pressure.

Q. That is, S, roughly speaking, is on the side of the tube, is it?—A. On the side of the tube.

Q. So that it does not feel the effect of the velocity or impact?—A. No, sir; it just flows across. Now the opening D is faced

12173 against the floor, and it feels the effect of the velocity as well as the static. Now, the effect will be then on this water that I have described in the U-tube; the dynamic force will push the water down.

Q. Now, just a moment. What you call the dynamic pressure, which is the static pressure plus the pressure resulting from velocity——A. Yes, sir.

Q. ——is felt downward, as I understand, in this instance?—A. It is a little more than the static, and it pushes the heavier water in the U-tube down.

Q. Yes; but it passes downward in the tube shown in fig 4?—A. Yes; it passes downward.

Q. Therefore it passes downward in the construction shown in fig. 3, does it?—A. It passes down.

Q. Down through where the letter D is?—A. It passes down and then up through where the letter D is.

Q. Through the tube marked D?—A. Yes, sir.

Q. And then up through the tube marked G?—A. Yes, sir.

Q. And so on up around through the tube marked A?—A. Yes, sir.

Q. And down to the U-tube?—A. And down through the right-hand side to the U-tube.

Q. And likewise the static pressure, which comes in at the point S in fig. 4, passes up through the tube, through the point P, past the point H, does it? And then out through what is marked G?—A. Yes, sir.

Q. And then around to C?—A. Yes, sir.

Q. And then down to the left branch of the U-tube, does it?—A. Yes, sir.

Q. Now, go on and explain how the two pressures operate
12174 in the U-tube.—A. Now, we have the water so that the level of it, when there is no pressure on it, is at the mark zero or 0 on the U-tube.

Q. That is to say, if the water stood at the same height in both branches it would reach the zero line, would it?—A. It would stand at the zero line, which is shown drawn across there. Then when the pressure is put on the water on one branch goes up and the other goes down.

Q. That is, that branch which feels the double pressure——A. Goes down.

Q. ——pushes the water down, or the water goes down in that branch?—A. Yes, sir.

Q. And the water in the branch which feels only the single pressure goes up?—A. Yes.

Q. And what on this drawing indicates the height of the two columns of water?—A. There is a graduated scale on each branch, and the height is found by adding the distances on both branches together.

Q. What indicates in this drawing the height which the water is supposed to reach? Isn't it the letter U? You can call it the letter U. You may take it to be so.—A. You can take it as the letter U; yes. Now, in one case it would be 10½ and on the other it would be 8½, and the height would be 19.

Q. That is to say, assuming that the letters U U represent the height of the water in the two different branches under the action of these different pressures, you would measure the distance on
12175 one side up from the zero line and on the other side down from the zero line and add them together?—A. Yes, sir.

Q. And that difference in the height of the two columns would give you the data from which you could figure out the velocity, just as you stated before?—A. Yes, sir.

Q. It is the difference in the level between the water in the two branches of the U-tube?—A. Yes, sir.

Q. Now, this being the apparatus which you used, will you please describe somewhat in detail how you used it, what observations you made from it, etc.? Do not at first go into any computations as to velocities, but state how you used this in getting these differences of pressure in the pipe.—A. In the first place, we had to make an opening through the pipe and introduce our instrument, and connect it up, as you see on fig. 3. There is a screw, S, that can be put in these openings D and S any place in the cross-section of that pipe.

Q. You mean D and S as shown in fig. 4?—A. D and S as shown in fig. 4.

Q. You do not mean any place in the pipe, but you mean anywhere from the top to the bottom?—A. Anywhere from the top to the bottom.

Q. Explain the method of measurement there.—A. We would introduce this instrument so that the openings were just below the upper shell of the pipe.

Q. You mean just inside the pipe from the top?—A. Just inside the pipe from the top; and we would take our readings. We took several and averaged them.

Q. You mean your readings on the scales on the U-tube?—A. On the scales of the U-tube, and average them.

12176 Q. Why did you do that?—A. To get a little closer reading. There was very little difference in any of the readings, but what little differences there were, we tried to average them, so as to get it correct.

Q. You mean to say that without changing your apparatus, having got it fixed at one point, you then read it several times, did you?—A. Several different times.

Q. And different persons read it?—A. Yes, sir.

Q. So as to get rid of the individual equation?—A. Tried to; yes, sir.

Q. And then you took the average of those several readings as the correct reading for that point, did you?—A. For that point; yes.

Q. Then, what did you do next?—A. This screw S has eight threads to the inch. We would move it slightly, for instance, a sixteenth of an inch—that is half a turn, and try again.

Q. You moved for half a turn, which would lower it a sixteenth of an inch?—A. A sixteenth of an inch.

Q. And then you took the test over again?—A. Took it over again, repeated it again.

Q. And then what?—A. And then the same thing continuously right through, except that after we got away from the shell of the pipe we would move it probably a full turn, and in some few cases four turns, because the velocity did not vary very much.

Q. If you took a full turn you lowered it an eighth of an inch?—A. Yes; and four turns would be a half inch, until we ap-

12177 proached the lower side of the pipe line. Then we would take closer readings again. What I mean by closer, we would

get down to an eighth or a sixteenth of an inch. After we got through that, we would repeat.

Q. Wait a moment. That goes on until you get up flush against the pipe on the lower side?—A. On the lower side.

Q. Then, what were you going to say?—A. Then we would repeat the experiments, make a traverse in an opposite direction, from the bottom to the top.

Q. What do you mean by a traverse?—A. A traverse is going across, just moving this instrument across the cross section.

Q. You mean you did the same thing, from the bottom to the top?—A. The same as we did from the top to the bottom.

Q. You reversed the process?—A. Reversed the process.

Q. And took a series of observations backward?—A. Yes, sir.

Q. Until you came back to the starting point?—A. Yes, sir.

Q. Now, is there any dial, any means on this instrument for a finer measurement than an eighth or a sixteenth of an inch?—A. Yes; we put a pasteboard dial on there.

Q. At what point on the drawing?—A. It was just on top of the yoke of the instrument there.

Q. You mean in the U-tube you have been talking about?—A. No; on the yoke just below the letter S.

Q. What was that dial?—A. That dial was divided into twenty equal parts on its circumference, and we could, by moving our handle C to any one of these points, move it $\frac{1}{20}$th of a turn, which would be $\frac{1}{160}$th part of an inch across the diameter of the pipe.

12178 Q. So you could tell the situation of the apertures within $\frac{1}{160}$th part of an inch?—A. Yes, sir; and could approximate closer than that.

Q. Just one word more about fig. 3. These portions marked G, what are they?—A. Those are flexible tubes.

Q. Why was it necessary to have flexible tubes?—A. So that they could move up and down as H moved up and down, as the screw went up or down.

Q. That is, the screw and the tube that runs down through the pipe moved up and down?—A. Moved up and down.

Q. And that was connected with these flexible tubes so as to allow for the play up and down?—A. Yes, sir.

Q. Without breaking?—A. Yes, sir.

Q. Now, by the method you have described and with this apparatus, did you take these measurements at substantially all points from the top to the bottom of the pipe, through the middle of the cross section?—A. Yes, sir.

Q. Now, without going at present into details, I will ask you whether you conducted a number of tests which have been worked up, based upon those observations?—A. Yes, sir.

Q. Did you subsequently apply the same principle to the horizontal section through the pipe, or rather the horizontal diameter of the cross section?—A. Yes, sir.

Q. That is, in that instance, by turning your apparatus around you started at one side and worked across to the other side through the middle, did you?—A. Yes, sir.

Q. And without details at this moment, were the results of the same general character?—A. Of the same general character; yes, sir.

12179 Q. At any rate, you took similar observations from one side of the pipe to the other side of the pipe, on the same principle and in substantially the same way you testified to in regard to going from the top to the bottom and from the bottom to the top?—A. Yes, sir.

Q. In each case you doubled back, so as to get what you call the two traverses?—A. Yes, sir.

Q. How many tests have been tried or were tried in the course of your various experiments?—A. There were several.

Q. Were you present at all of them?—A. All of these experiments; yes, sir.

Q. I find here figs. 5, 6, and 7 on these blueprints. Will you look at those and just state generally whether you were present at the observations which are tabulated there?—A. Yes, sir.

(The prints referred to are marked "Defendants' Exhibits 231, 232, and 233.")

Q. I show you defendants' Exhibit 231, which is fig. 5 on these blueprints, and ask you to state what that represents. Describe it.—A. Fig. 5, Exhibit 231, represents the platting of these tests—what we call velocity test No. 1.

Q. State when that took place and where.—A. That was about the last of December some time, near Franklin.

Q. You are looking at fig. 5?—A. Fig. 5.

Q. Wasn't it November? The date is given on the blueprint as November.—A. It may be November.

Q. Whatever the date was, is the date on here correct?—

12180 A. Yes, that date is correct.

Q. So it would appear that took place November 15, 1907?—A. Yes, sir.

Q. And where did it take place?—A. At a place called Penn Switch, near Franklin, Pennsylvania.

Q. In what kind of a pipe?—A. A 6-inch pipe.

Q. What was the oil that was used?—A. Pennsylvania oil.

Q. Of what gravity?—A. 47.2.

Q. What was the rate at which oil was being pumped through that pipe?—A. 560 barrels an hour.

Q. And this blueprint here represents tests taken in which direction, up and down or right and left?—A. These are up to down.

Q. That is what you call a vertical traverse?—A. That is what we call a vertical traverse.

Q. By the use of this Pitot tube apparatus?—A. Yes, sir.

Q. Before you go on, Mr. Page, I wish you would tell the court what is meant by gravity in oil.—A. Gravity in oil means the

weight. We have a sort of an arbitrary instrument or scale, what we call Baumé hydrometer, which has been in use for years.

Q. Baumé was a Frenchman, a French scientist, wasn't he?—A. Baumé was a French scientist, I believe, who invented the scale a number of years ago, and it has been used quite generally ever since. The scale we use is marked from zero up probably to 40, 50, or 60. Now, he marks on his scale 10 for water. Then he goes up, as the liquids get lighter. I may explain the instrument a little better——

12181 Q. Never mind; don't go too much into detail. You are going on all right.—A. Then, as the liquid is lighter it sinks more into the liquid, the instrument does, and it gives a higher gravity.

Q. That is to say, the lighter the liquid that is being used, according to this principle of registration, the higher its gravity?—A. The higher its gravity.

Q. And 10 being the arbitrary figure taken for water, 20 would indicate something lighter than water?—A. Yes.

Q. And 30 would be lighter than 20?—A. Yes.

Q. And so on up?—A. Yes.

Q. So the higher the figures in degrees given to indicate the gravity, the lighter the liquid?—A. Yes.

Q. And the lighter the oil in this instance?—A. Yes.

Q. That is right, is it?—A. Yes.

Q. So that 40 oil is lighter than 30?—A. Yes.

Q. And 30 than 20, if there be any such thing as 20?—A. Yes.

Q. It is not what is known as specific gravity?—A. No.

Q. Specific gravity runs the other way, doesn't it?—A. The other way; yes, sir.

Q. It is converse of this?—A. Yes, sir.

Q. Now will you describe defendants' Exhibit 231, fig. 5 on the blueprint, and state what it represents.—A. Beginning at the left-hand side you will see a small circle.

Q. Just opposite what figure?—A. Nearly opposite the 4 mark.

Q. Yes.—A. Now, that represents the velocity a short dis-

12182 tance in, a short distance below the top of the pipe.

Q. You mean that in the course of your test you went through the process which you have described, with the apparatus based upon the Pitot tube, and then you worked up the data from that according to your formula, and your conclusion was that the velocity at that point was indicated by——A. By 3.95, say, approximately.

Q. Let me ask you what these figures on the left-hand margin of this paper are? What do they represent?—A. They represent numbers on this particular cross-section paper. They do not mean anything, except that they are relative.

Q. They are relative in what way?—A. If you have any unit and it is marked, say, 4 feet on here, or marked 4, and the velocity is half as fast again, it would be marked 6.

Q. Then, supposing these figures on the left hand represent feet, for convenience, it being understood that they are not drawn to the scale of feet and inches in the exhibit, then this would indicate, or you would mean by this that the oil at the distance from the shell of the pipe indicated at the first little circle was how much?—A. A little over 3.95 feet.

Q. Per what?—A. Feet per second.

Q. Then, as you follow the line upward I notice that there seem to be two lines. One is a dotted line and the other is a solid line. What does that mean?—A. The solid line is our traverse going from top to bottom, and the dotted line is from bottom to top, reversing.

Q. Your figures here represent the two—represent the up
12183 and down?—A. I am taking the downward now.

Q. Yes; but this fig 5——A. Fig 5 represents both.

Q. Then, taking the solid line for convenience, it represents, I think you said, the traverse from top to bottom?—A. Yes, sir.

Q. As you get further away from the shell of the pipe, what is the fact in regard to the distance traversed per second?—A. It increases.

Q. It increases, so that at a certain distance I see that you have a figure 5 on the left-hand margin there. So, that would indicate that the oil at the point just opposite the figure 5 was moving at the rate of 5 feet a second?—A. Nearly 5 feet a second.

Q. Or 5 units per second?—A. Yes, sir.

Q. And 5 feet, if we take a foot for the unit?—A. Yes, sir.

Q. Then, as you get to the upper part of the curve in the middle of the top of this fig 5, Exhibit 231, what appears there to be the velocity?—A. It would be there about 6.14.

Q. 6.14 in the unit of measurement, whatever was assumed, would it?—A. Yes, sir.

Q. And if we assume feet, then it would mean 6.14 feet per second?—A. Yes, sir.

Q. In other words, the rate or velocity in the middle portion of the pipe, as shown on this test, would be approximately 50 per cent greater, one-half greater, than at the starting point down near the edge, down near the interior surface of the pipe?—A. Yes, sir.

Q. Is that what it indicates?—A. That is what it indicates.

12184 Q. What is there in this drawing which indicates the pipe?—A. That line at the left and right that has a little hatching on it.

Q. Little diagonal lines?—A. Little diagonal lines.

Q. Then, a line drawn straight across from one of these hatched lines to the other hatched line would be the full diameter of the pipe, would it?—A. That would represent the diameter of the pipe, 6 inches.

Q. Then following this curve down the right-hand side as you approach nearer to the interior of the pipe, what is true in regard to the rate of the velocity?—A. It decreases.

Q. And when you finally get down to the lowest point on the right-hand side, where you are practically close up to the pipe, what do you find the velocity there to be?—A. Less than 4.

Q. About 3.85, isn't it?—A. Yes, sir.

Q. Now, I notice that the beginning of this curve is not close up to the side of the pipe, the beginning on the left-hand side just below the figure 4, whereas on the right-hand you come down practically flush with the inside of the pipe. Is there any reason for that?—A. The screw in our instrument was not long enough.

Q. That that indicates simply that you did not, in that particular test, get the observation close up to the pipe?—A. Not in that case.

Q. And is that true in regard also to those in fig. 6 and
12185 fig. 7?—A. Yes, sir; they are all the same.

Q. So that they simply mean that you did not have an accurate observation in that portion of the curve?—A. No, sir.

Q. There was no intention to omit it?—A. No intention.

Q. Whereas, when you came down on the bottom of the pipe, then you were able to come right up flush to it, were you?—A. Quite close.

Q. Almost?—A. Almost.

Q. Closer, at any rate?—A. Yes, sir.

Q. On the right-hand side of this blueprint, which indicates the bottom of the pipe?—A. Yes, sir; we got a little closer with our instrument, that was all.

Q. But there was no motive or intention in omitting part of it on the top of the pipe? Simply that your apparatus did not enable you to measure as closely there as it did at the bottom?—A. No, sir.

Q. You stated that this was carried through in a 6-inch pipe. I would suppose, from looking at it, that the distance here was considerably over 6 inches. Is this intended to be drawn to a scale from right to left?—A. It is just simply the scale of the cross-section proper. It does not mean inches at all. It is more than 6 inches.

Q. You mean it was exaggerated for convenience?—A. Exaggerated for convenience.

Q. Down at the bottom of the sheet are some figures running from 0 to 6, and over them the words "Distance from top wall of pipe in inches." What do those indicate?—A. Those represent
12186 inches. That is, the distance given there from 1 to 2 represents from 1 inch to 2 inches across the diameter of the pipe.

Q. And they are purposely exaggerated in order to make the readings clearer, are they?—A. Yes, sir.

Q. And because that is the way the paper is lined?—A. Yes; because the paper is ruled that way.

Q. Now, look at Exhibits 232 and 233, figs. 6 and 7. With the exception of the details, do they represent similar results from other tests?—A. Yes, sir.

Q. In Exhibit 232 it appears from the statement here, which I suppose is correct, that this was a 6-inch line, on a test carried on on November 15, 1907, with Pennsylvania oil having a gravity of 47.2 degrees B.—Baumé. Is that correct?—A. That is correct.

Q. And the pumping rate was 280 barrels per hour?—A. Yes, sir.

Q. And in the case of Exhibit 233, fig. 7, the test was taken on the same day, was it?—A. Yes, sir; at the same time.

Q. With Pennsylvania oil of the same gravity?—A. Yes, sir.

Q. And at a pumping rate of 420 barrels per hour?—A. Yes, sir.

Q. And the other statements made upon the face of the blue print are correct, are they?—A. Yes, sir.

Q. And also fig. 6?—A. Yes, sir.

Q. Did you get generally similar results in figs. 6 and 7 in the tests there shown as those which were shown in fig. 5?—A. Yes, sir.

Q. Is this the same pipe?—A. The same pipe.

Q. In each of the three tests?—A. The same pipe in each
12187 of the three tests; yes, sir.

Q. And the same oil?—A. The same oil and the same place.

Q. And the only difference was in the pumping rate?—A. That is all.

Q. What did you find to be the velocity near the interior of the pipe at the first point which you measured in fig. 6?—A. It is a little over 3.2 feet or 3.2 units.

Q. Isn't it 2.2?—A. Oh, you mean on the edge. I thought you meant on the center.

Q. I mean at the starting point.—A. At the starting point a little over 2.2 units.

Q. That is a little way inside from the pipe, isn't it?—A. Yes, sir.

Q. And at the middle of the column what does the velocity appear to be?—A. A little over 3.2 units.

Q. Roughly, about one-half more than at the first point you tested?—A. Yes; roughly, 50 per cent more.

Q. And then the velocity declines as you approach the bottom of the pipe, does it?—A. Yes, sir.

Q. Just as in the case of the other tests?—A. Yes, sir.

Q. And in a general way similar results are shown in fig. 7, are they?—A. Yes, sir.

Q. The left-hand hatched line represents the top of the pipe, does it not?—A. Yes, sir.

Q. And the right-hand hatched line the bottom of the pipe?—A. Yes, sir.

Q. And in each of these, as I understand it, the solid curve represents the observations taken as you went down from top to
12188 bottom?—A. Yes, sir.

Q. And the dotted line represents those taken as you came up from the bottom to the top?—A. Yes, sir.

Q. Were you personally present at the tests that were taken at Kane, Pennsylvania, in January?—A. Yes, sir.

Q. Now, you will turn to figs. 9, 10, and 11 in this bunch of blueprints.

Defendants' Exhibit No. 234 is, at the request of defendants' counsel, reserved for a document to be hereafter marked. Three

blueprint figures are marked "Defendants' Exhibits 235, 236, and 237."

Q. Look at defendants' Exhibits 235, 236, and 237, which are marked figs. 9, 10, and 11 in the blueprints. Do those represent the results of tests similar to those which you have just described?—A. Yes, sir.

Q. These tests were made where?—A. At Kane, Pennsylvania.

Q. And in what month?—A. In January.

Q. What year?—A. This year.

Q. 1908?—A. Yes, sir.

Q. With what size pipe were the experiments shown in figs. 9 and 10 made?—A. 6-inch pipe.

Q. And in what sized pipe was the one shown in fig. 11 made?—A. 8-inch pipe.

Q. In the tests shown in fig. 9, what kind of oil was used, and what was its gravity?—A. North Lima oil; 36.4 gravity.

Q. At what rate of pumping?—A. 438 barrels per hour.

12189 Q. In fig. 10, what kind of oil, and what gravity?—A. North Lima oil; 36.4 gravity.

Q. At what pumping rate?—A. In one traverse 560 barrels, and in the other traverse 604 barrels per hour.

Q. You mean by that, in going from the top to the bottom, the rate was 560?—A. Yes, sir; 560.

Q. And going from the bottom to the top it was 604?—A. Yes, sir.

Q. Now, take fig. 11. What kind of oil, what gravity, and what pumping rate there?—A. That was what was termed Sweet Illinois oil, gravity 33.5.

Q. And what rate of pumping?—A. Pumping 742 barrels an hour.

Q. In each of these tests which are shown here did you first take measurements going from top to bottom and then measurements from bottom to top?—A. Yes, sir.

Q. And the results of those measurements are shown in all of these three figures by solid and dotted lines, are they not?—A. Yes, sir.

Q. The measurements going down being shown on the solid line and the measurement going up on the dotted line?—A. Yes, sir.

Q. Is that correct?—A. Yes, sir.

12190 Q. Do these little circles at various points on the line represent where you took measurements?—A. That is where we took our measurements.

Q. And what you have stated in regard to figs. 5, 6, and 7 apply generally to these, do they?—A. Yes, sir.

Q. Now, taking fig. 9, what do you find was the velocity at the first point which you measured, near the top of the pipe, about?—A. It was about 2.6.

Q. Are you sure it is 2.6?—A. Yes; the one before that was about 2.1.

Q. You are speaking now of the downward traverse, are you?—A. Yes, sir.

Q. That is right. I mean I so understand it. Now, at what point in the cross-section did you find the greatest velocity?—A. It is some little distance below the top part of the pipe.

Q. About an inch, according to your measurement?—A. Yes; I can tell you when I take my scale. I can tell you in a minute. It was at about ¾ of an inch.

12191 Q. Now, do you find a similar result in the test shown in fig. 10; that is, that the greatest velocity was at a point a half an inch or three-quarters of an inch below the top of the pipe?—A. Yes, sir.

Q. Will you say from the general result of all these tests that the rate of velocity below the center was less, ordinarily, than the rate above the center?—A. Generally there is not much difference; generally it shows up a little bit less.

Q. And in these particular tests it is considerably less, isn't it?—A. Some less; yes, sir.

Q. And what is the velocity on this scale of unit at its highest point on the descending traverse in, say, fig. 9?—A. Fig. 9 would be a little less than 4.9.

Q. I think you said the starting point was about 2.2?—A. Yes; about 2.1.

Q. 2.1? So that in that case the velocity at the greatest point was more than double the velocity at the beginning, that is to say, at the top of the pipe?—A. Yes, sir.

Q. And is it not a fact that going across that pipe from top to bottom, from what you have described as the point of greatest velocity, until you get within three-quarters of an inch or so of the bottom of the pipe, that the velocity is all more than twice as much as it is at the very top of the pipe?—A. Yes, sir.

Q. Now, referring to fig. 10, which is defendants' Exhibit 236, what indicates here the velocity at the very top of the pipe?—A. It is about 4.7 units.

12192 Q. That is on the descending traverse?—A. Yes, sir.

Q. And what is the velocity at the greatest point in fig. 10?—A. It is a little over 7.05.

Q. That is rather more than half as much again as it is at the beginning, isn't it, at the top of the pipe?—A. Yes, sir.

Q. And in other respects what you testified to in regard to those 5, 6, and 7 apply to these 9 and 10?—A. Yes, sir.

Q. In a general way?—A. Yes, sir.

Q. Making the necessary changes. In fig. 11 you have a similar test for an 8-inch pipe, have you not?—A. Yes, sir.

Q. What do you find the velocity at the top of the pipe in that test, Exhibit 237, fig. 11?—A. A little over 3.4 units.

Q. And what is the velocity at the highest point?—A. A little over 5.1 units.

Q. And in this instance the highest velocity is below the center, isn't it?—A. It is about the center.

Q. Have you and your colleagues in these experiments devised a plan for measuring the quantity of oil which may be affected one way or the other by these different velocities?—A. Yes, sir.

Q. Will you look at defendants' Exhibit 234, fig. 8, and explain what that is, what the diagram represents?

(Fig. 8 was marked "Defendants' Exhibit 234.")

A. The heavy white line, the outside circle, represents the iron metal in a 6-inch pipe.

Q. Is this drawn to a scale?—A. That is drawn to a scale; yes, sir.

Q. The exact scale is 6 inches?—A. The exact scale is 6
12193 inches. The next ring intercepts an area of 1/10th of the whole area. The area between the first and second rings inside intercepts the same area, one-tenth. These areas, 1, 2, 3, 4, and 5, and up to 10, are all equal to each other, and they are all equal to one-tenth of the cross-section of the pipe.

Q. That is to say, the space marked "10" there, within the inner circle, which is nearly 2 inches wide, is the same in area as the very narrow space marked "1," is it?—A. Yes, sir; that is what I mean.

Q. And both of them are equal to each one of these other spaces?—A. Yes, sir; each one.

Q. As you go from the center towards the circumference of the pipe, in order to get equal areas you have a constantly narrowing diameter?—A. Yes; constantly narrowing widths, rather.

Q. "Width" is a better word?—A. Yes.

Q. And each one of these spaces marked out here is exactly the same area as each other, is it?—A. Yes, sir.

Q. Then, does it follow from that, that instead of taking this as a cross-section you suppose these circular lines to be cylinders, one within the other, running parallel with the pipe, that the volume of water or of oil or other liquid that would be included between any two cylinders, or between the outmost cylinder and the pipe would be just equal in volume?—A. Yes, sir.

Q. For example, the inner core of water, corresponding to "10," would be equal in volume to the small cylinder of water formed between the external pipe and the cylinder corresponding to the first circle here?—A. Yes, sir; the same thing.

12194 Q. Then it would follow, would it not, as applied in practice, that a very small difference in the measurements in your test might affect a large amount of oil?—A. Yes, sir.

Q. The first circle here appears to be about an eighth of an inch from the interior of the pipe. Calling it so for convenience, and assuming it, then, if the rate of speed taken in the midway between the pipe and the first line that is midway, an eighth of an inch, if that differed widely from the rate of speed in the middle portion of the column, the difference in velocity would affect as large a volume of oil as that contained within the inner circle?—A. Yes, sir.

Q. So that a difference of velocity, taking a very short distance away from the interior of the pipe, might affect a considerable proportion of the total volume of the oil in the pipe; is that so?—A. Yes, sir.

Q. Now, referring again for a moment, with that in your mind to figs. 9, 10, and 11, where the lines which represent the velocity appear to vary not very far from the side of the pipe until they get up near the upper part of the curve, is it a fact, nevertheless, that the distances represented there from between these curves and the interior of the pipe is enough, in accordance with the law that you have just stated, to affect a large part of the oil in the pipe?—A. Yes, sir.

Mr. CRAWFORD. I offer in evidence defendant's Exhibits 227 to 237, inclusive, being fig. 1 to fig. 11 on the blueprint.

Mr. KELLOGG. They are objected to as immaterial.

12195 Q. Now, will you look at the three following prints, fig. 12, fig. 12–A, and fig. 13, defendants' Exhibits 238, 239, and 240, and explain to what tests these apply.—A. Fig. 12 applies to test No. 5, one of the tests heretofore mentioned.

Q. You mean that it is the test shown in fig. 10?—A. That is in fig. 10; yes, sir.

Q. Fig. 12–A, what test does that refer to?—A. Fig. 9, defendants' Exhibit 235.

Q. And the last one, fig. 13, which is defendants' Exhibit 240, what test does that apply to?—A. That is test No. 6.

Q. Test No. 6, fig. 11?—A. Yes; fig. 11.

Q. Now, take up fig. 12, defendants' Exhibit 238, and explain that briefly?—A. Fig. 12 represents a 6-inch pipe, in diameter, drawn to scale.

Q. From top to bottom, vertical section, is it?—A. Vertical section, top to bottom.

Q. What do these figures 0, 1, 2, and 3, represent?—A. 0, 1, 2, and 3 represent feet, drawn to a natural scale; that is, they are feet. The line 00 indicates where we applied out Pitot tube, fig. 3.

Q. That is defendants' Exhibit 229. Now, these horizontal lines and the semicircles indicate one-tenth areas, or one-tenth volumes, rather, according to the description you gave of fig. 8?—A. Yes, sir. On the upper part of the pipe you will notice, close inside, that the velocity is a little less than 4 feet.

12196 Q. The velocity for what time does that mean?—A. That means the velocity per second. The velocity per second represents a little less than 4 feet. The velocity as we traverse down, going down into the pipe, increases, and we find after we get down into the pipe a little way, say a half an inch, the velocity shows as a little over 5½ feet per second; it falls off, and after it gets about an inch and a half in or down, it shows a little less than 5½ feet. Then it increases again and gets up fully 5½ feet. Then it slowly drops off until it gets to, say, 5¼ feet per second.

Q. At what distance from the bottom?—A. That would be about an inch from the bottom. From that point it drops off rapidly and gets back to 3¾ feet at the bottom of the pipe.

Q. Was this diagram and the two others, figs. 12–A and 13, made up from the actual observations that were taken by you and your colleagues in these tests?—A. Yes, sir.

Q. In the tests which correspond to them?—A. Yes, sir.

Q. I notice on the right-hand of the diagram a dotted line.—A. That was the traverse in the opposite direction, from bottom to top, and the rate of pumping has been increased from 560 barrels per hour to 604 barrels per hour.

Q. What does the difference in color indicate, yellow and brown?—A. This is put in just to show you what the velocities would be, just what particular velocity would be pushed forward, you might say, into an oil of the same quality and viscocity, the idea being to show the loss of velocities or governing velocities as you pass across the cross section of pipe.

12197 Q. In these three different drawings the difference in color does not indicate different kinds of oil?—A. No.

Q. It might be the very same oil?—A. The very same oil.

Q. Or oil, at any rate, of the same gravity?—A. Yes.

Q. The color in brown does not indicate any change in the oil, in these diagrams?—A. No, sir.

Q. Let me understand whether this is what you mean: Referring to the line which is marked "O" as a starting point, and following the curve out to its irregular right-hand end and back again, the whole diagram shows the different rates of velocity for one second of particles of oil starting at different points on the downward line at "O;" is that what you mean?—A. Yes, sir; that is what I mean. It shows the different rates of velocity per second.

Q. Of different particles of oil there?—A. Yes, sir.

Q. That has nothing to do with any difference in grades of oil or gravities of oil?—A. No, sir.

Q. In other words, a particle of oil starting at the zero point, at the top of the pipe, at the expiration of one second, according to the observations you made in this experiment, would have reached about 4 feet?—A. Yes, sir.

Q. And a particle starting about half an inch below the pipe, or three-eighths of an inch, would have reached a distance of 5½ feet in one second?—A. Yes, sir.

Q. And that is the difference in the velocity of the particles of oil at the two different points?—A. Yes, sir.

Q. And so as you go down through the pipe, this curve represents the points at which the particles of oil which

12198 started all at zero at the same moment have reached in one section?—A. That they should reach at that velocity, at that rate.

Q. That would be the theoretical conclusion?—A. Yes, sir.

Q. Then, this would indicate that the particle of oil starting at the bottom had gone about 3¾ feet in one second?—A. Yes, sir.

Q. And that that was its velocity?—A. Yes, sir.

(A recess was here taken until 2 o'clock p. m.)

Q. Referring to fig. 12, which is defendants' Exhibit 238, do you mean to be understood by this as intending to show that particles of oil which started at the zero point moved on parallel lines—that is, parallel to the interior of the pipe—to the position shown on the curved end of the figure?—A. What is intended to be shown is the rate of velocity beginning at zero; this irregular curve would show where it would reach if it came in a straight line, but we have no means of knowing whether each particle of oil traveled in a straight line or not.

Q. Does the curve which is platted here indicate that at a single moment of time different particles of oil are traveling at the different velocities herein indicated and occupied substantially the different positions that are here shown?—A. Very closely.

Q. However they got there, whether they came on parallel
12199 lines or sinuous lines, that you do not undertake to say?—A. That I do not undertake to say at all. That irregular curve shows just the rate of flow if kept up at the rate at the point of observation.

Q. And it shows that if that kept up, at the end of a second different particles of oil would assume the different positions shown upon this curve?—A. Yes, sir.

Q. And that is true also of fig. 12–A and fig. 13, Exhibits 238, 239, and 240, is it?—A. Yes.

Q. Now, you have spoken of this as representing the state of things at the end of one second. What is the fact in regard to the continuance of that state of things?—A. The next second would be the same thing repeated, and the third second repeated again, so it is cumulative; it keeps on adding.

Q. Then the tendency is, is it not, for the oil, as it is being pumped, to assume the form of an elongated cone or tongue?—A. Yes, sir.

Q. Thrust into the body of the oil and advanced with it?—A. Yes, into the preceding oil.

Q. And as time goes on that becomes more and more elongated?—A. Yes, sir.

Q. In the absence of further experiment, what would you conclude as to the tendency to produce mixing, resulting from that state of things?—A. This would produce mixing, on account of the different velocities; it would produce mixing in the pipe.

Q. That is, the oil near the side going more slowly and that in the middle going more rapidly?—A. Yes. It has sort of a tele-
12200 scope motion. The oil in the middle would be going at a more rapid rate and on the edge of the pipe it would be slower and falling in behind.

Q. And is it supposed in hydraulics, in the case of water at least, to be something in the nature of an eddying motion which is going on there?—A. We assume there is an eddying motion.

Q. That is one of the assumptions of the science of hydraulics, isn't it?—A. Yes, sir.

Q. So it is probable that something of the same sort may take place in the oil pipe?—A. No doubt it is true in other liquids—in both water and oil.

Q. Is the course of the oil under different velocities affected somewhat by curves in the pipe?—A. Yes, sir.

Q. How is that?—A. At first there is a sudden change in direction. The oil would be impinged on the outer side of the pipe and would mix up on account of the sudden change in direction.

Q. This existing difference in the velocities and the tendency for some of the particles to move into the middle of the oil in front more rapidly than on the side, that would continue, would it?—A. It would keep on continuing right through; yes, sir.

Q. And when you got past your curve, then the same operation would begin again?—A. Yes, sir.

Q. In a general way, you mean to say, as time went on the thing would be progressive?—A. Yes, sir.

Q. In ten seconds there would be——A. Ten times as much mixing.

12201 Q. Ten times as much mixing as in one second?—A. Yes.

Q. Did you subsequently conduct or assist in conducting the same experiments with a view to determining the amount of mixture or determine what would result in a single pipe under the operation of this law that you have described?—A. Yes, sir.

Q. Before taking that up I want to direct your attention to the blueprints, figs. 18 and 19, and 20 and 21. These tests, according to the notation upon the diagram, were made, two of them May 15, 1908, and two of them May 18, 1908. Who was present at those tests?—A. Mr. Weymouth and Prof. Schoder and a number of others.

Q. I will ask you whether the tests shown in fig. 19 and fig. 21 were substantially to the same effect as the previous tests to which you have testified?—A. Yes, sir.

Q. And the statements upon the face of the blueprints in regard to the kind of oil, the gravity, size of the pipe, etc., are correctly given, are they?—A. Yes, sir.

Q. And what you have testified generally in regard to the previous tests you would repeat in regard to these, would you?—A. Yes, sir; in regard to these.

Q. Why did you repeat them?—A. Because Prof. Schoder was there to witness these experiments.

Q. You repeated them so that he might actually see them?—A. So that he might actually see them.

Q. As well as also to check up your theoretical results?—A. Yes, sir.

12202 (Skipping Exhibits Nos. 24 to 244, inclusive, fig. 18 of the blueprints was marked "Defendants' Exhibit 245;" fig. 19, "Defendants' Exhibit 246;" fig. 20, "Defendants' Exhibit 247;" and fig. 21, "Defendants' Exhibit 248.")

Q. The figures 19 and 21, to which I have referred, are the same as defendants' Exhibits 246 and 248, are they not?—A. Yes, sir.

Q. Now, looking at figs. 18 and 20, defendants' Exhibits 245 and 247, how do those differ, if at all, from the other tests?—A. They are the same kind of tests.

Q. Do they not differ in——A. Fig. 18 was a traverse taken from across, horizontally.

Q. Is that not also true of fig. 20?—A. Fig. 20 is the same.

Q. Those were measurements taken from one side of the pipe to the other, instead of from the top to the bottom?—A. Yes, sir.

Q. In other words, taken in the same way that you have described the previous tests?—A. Yes.

Q. With the same apparatus?—A. Yes.

Q. And these statements upon the face of the blueprints in regard to the kind of oil, its gravity, dates, size of the line, etc., those are correct, are they?—A. Yes, sir.

Q. Look now at figs. 22 and 23, which have been marked "Defendants' Exhibits 249 and 250," what about these tests? What character of tests do they show?—A. Fig. 22 is the same as fig. 20, except that it is a lower rate of pumping, and fig. 23 is a different rate of pumping.

12203 Q. You mean that fig. 22, defendants' Exhibit 249, is taken under the same conditions as fig. 20, defendants' Exhibit 247, except that the rate of pumping is less, and fig. 23, defendants' Exhibit 250, is taken under the same conditions as fig. 21, defendants' Exhibit 246, except the difference in the rate of pumping?—A. Yes, sir.

Q. I notice in figs. 20 and 22, being defendants' Exhibits 247 and 249, there is an elongation of a curve on the right-hand side, indicating, according to your previous testimony, that the greatest velocity took place in that instance quite near the right-hand side of the pipe. Is there any circumstance connected with the apparatus which would account for that?—A. If it had been a straight line and on level ground, we should look for the maximum velocity in the centre. That spur showing there would indicate that there was some local condition or obstruction, or something that changed the maximum velocity to one side.

Q. Do you remember anything about the situation of two tubes in connection with your apparatus?—A. Yes.

Q. Would that have affected it?—A. Not that part; no, sir. What I mean is, it would have some effect when they were quite close together, but it would not make the difference of that spur.

Mr. CRAWFORD. I offer in evidence defendants' Exhibits 238, 239, 240, 245, 246, 247, 248, 249, and 250.

Mr. KELLOGG. They are objected to as immaterial.

Q. Now, coming to the tests which you say you tried for the sake of determining quanti'tively the amount of the mixture. I call your attention to blueprint fig. 17, which has been marked "De-
12204 fendants' Exhibit 244." Where was that test tried?—A. At a place called South Penn Switch, about three or four miles from Franklin, Pennsylvania.

Q. What was the length of pipe in which the test was tried?—A. This was, I think, about 16 miles.

Q. It says on the face of the blueprint 16.01.—A. Yes; that is right.

Q. About 16 miles?—A. Yes.

Q. Of a single 6-inch pipe?—A. Of a single 6-inch pipe.

Q. And this was tried in the month of May, was it?—A. Yes, sir.

Q. May 14, 1908?—A. Yes, sir.

Q. Who was present at that test?—A. Prof. Schoder and Mr. Weymouth and some others.

Q. What were the two oils that were used?—A. The two oils used were a heavy-grade Pennsylvania and a light-grade Pennsylvania.

Q. Have you the gravities?—A. Approximately 35 and almost a half.

Q. 35.4, to give it accurately?—A. Yes; I see it is given at 35.4 and 45.7.

Q. Which of those two oils was in front?—A. The heavier oil.

Q. So that this illustrated the displacing of a heavier oil by a lighter oil, did it?—A. Yes, sir.

Q. Will you describe this blueprint diagram and state what you did? In the first place state what you did.—A. We had
12205 an apparatus in there to take samples of oil, and we estimated the time that the rear end of the column of heavy oil reached a point where we wanted to make some observations, and just a little before that time we took samples, and after that took the gravity of these samples. We took samples every half minute.

Q. Now just stop there a moment. Turn to fig. 14, defendants' Exhibit 241; does that show the apparatus you used for getting the gravity of the oil?—A. Fig. 14 shows the apparatus we used.

Q. What does the part marked "L" there indicate?—A. Pipe line.

Q. Pipe?—A. Pipe.

Q. A vertical section of the pipe, is it?—A. Yes, sir.

Q. Now what are these cylinder tubes coming down into that?—A. Those are small tubes to take samples from different parts of the diameter of the pipe.

Q. That is, leading from the top to the bottom?—A. Yes, sir; leading from the top to the bottom.

Q. What was the object of taking so many?—A. To get samples from different parts of the diameter; different parts of the cross-section.

Q. Why did you want to get samples of that?—A. We thought possibly there might be some difference in gravity.

Q. If there was, you wanted to eliminate the error?—A. We wanted to eliminate the error.

Q. What did you do with your samples when you got them?—A. We set them aside and afterward took the gravity of them.

12206 Q. And averaged the gravity?—A. Averaged the gravity.

Q. So that as far as possible you eliminated any error that might arise from a difference in gravity in the upper part of the pipe from that in the lower part of the pipe?—A. Yes, sir.

Mr. KELLOGG. Do you mean you averaged the gravity, or mixed them together and then averaged them?

WITNESS. What we took out we mixed together, and then averaged them. We took the mixture.

Mr. CRAWFORD. Now, wait until I get through.

Q. These pass up and pass across and then down to the point where they appear to discharge the bottles?—A. Yes.

Q. Explain that, will you?—A. There are five bottles shown there, and they are on a little sliding platform. Just at the ends of these tubes you spoke of are glass tubes, and above those are little throttles, We tried to regulate those throttles so as to have the same sized stream going through each pipe, so that all the bottles would be filled at the same time, as nearly as we could do so.

Q. When the bottles were filled, what did you do?—A. We set them aside and corked them.

Q. Then what?—A. They were labeled. We took also another sample of the mixture.

Q. How did you get that?—A. That was in the funnel marked "F-1."

Q. That is, you let the streams continue to run?—A. Yes.

Q. They all went into the funnel marked "F-1"?—A. Yes, and we took samples there.

12207 Q. How did you catch the sample from F-1—in a different vessel?—A. In a different vessel; yes.

Q. So the result was you had five samples, one from each of the points indicated by the small letters a, b, c, d, and e, and one mixed sample, had you?—A. Yes. But I wish to state here that after we took a few samples, point "e" got clogged, and we were obliged to throw it out; it got clogged in the pipe line.

Q. So, after that you only had four samples?—A. We only had four samples.

Q. In which test was that true—the one you have just described, or which we started in to describe, the gravity test, taking place on May 14, 1908, fig. 17?—A. Yes; that is a plat or chart of the gravity of the mixed samples as we took them.

Q. Now, when you had these samples, you took the gravity of the mixed sample, did you?—A. Yes, sir.

Q. Did you take a sample of those in the bottles, too?—A. Yes, sir.

Q. What did you do with the gravity of those in the bottles?—A. We simply compared them with the gravity of the mixture. We had the gravity of two sets, those in the small bottles taken separately, and also took the gravity of the mixed sample.

Q. Did you average the gravity which you got from the bottle samples, or how did you compare them?—A. We just compared them.

Q. Which ones did you take?—A. In platting we took the mixed samples.

Q. This device at the lower right-hand corner of this diagram is simply an outlet back into the oil?—A. Yes; just a waste-
12208 way for the oil.

Q. Now, this process of sampling you followed how frequently?—A. Every half minute during the operation.

Q. Coming back to fig. 17. This curve starts at a point on the left-hand side, approximately 35.4. What does that mean?—A. That means the gravity of the oil.

Q. That is, that was the gravity of the heavier oil, was it?—A. Yes, sir.

Q. Which was at the head of the column?—A. Yes, sir.

Q. At the first observation, then, you were getting heavier oil in a pure state, were you?—A. Yes, sir.

Q. Now, just go on and describe the balance of the curve, what it means.—A. Then at 1.05 you will notice that the gravity is just a trifle more. It fluctuated a little bit more and then less until just before 1.10; then it takes a decided change and runs lighter in gravity very rapidly, until about 1.17 or 1.18; and then it goes slowly up until it gets about 1.25; after which it quite nearly compares with the gravity of the light oil.

Q. What point in time did it reach and show the gravity of the light oil—about 1.35?—A. 1.35 would be about where it was practically all light oil.

Q. 1.37, isn't it?—A. About 1.37.

Q. This means time, does it?—A. Yes, sir.

Q. Minutes. Below this it is 1.00 o'clock, say 1.35—35 minutes after 1. Then the change, as indicated here, begins at 5 minutes after 1, about, does it?—A. Yes; 5 minutes after 1.

Q. That means 5 minutes after 1 o'clock in the day?—
12209 A. Yes, sir; afternoon.

Q. And when it ends at 1.37, that means that you had then got back to the gravity of the lighter oil, had you?—A. Yes, sir.

Q. The pure, lighter oil?—A. Yes, sir. In other words, the contaminated portion had passed.

Q. According to this, how long was the contaminated portion in passing through?—A. It would be about 32 minutes, something like that.

Q. And during those 32 minutes the oil that was going through was a mixture, was it?—A. It was a mixture; yes, sir.

Q. Of the heavier gravity and the lighter gravity?—A. Yes, sir.

Q. And varying in the proportion of the mixture, but still all mixed, was it?—A. Yes, sir.

Q. What was the rate of flow in that experiment? It does not appear to be given on this.—A. I don't remember what it was.

Q. I have a memorandum here. It will prove by another witness that the rate of pumping was 538 barrels an hour. Would that be your recollection?—A. My recollection is between 500 and 600 some place; I am quite sure of that.

Q. Assume that the rate was 538 barrels per hour, what would be the amount of contaminated oil which passed in this test, in the time you have indicated there, from 1.05 to 1.37?—A. It would be just a little over half an hour. It would be about 264 or 265 barrels.

12210 Q. Then, this test would indicate that at that time and under those conditions the amount of contaminated oil was about 260 barrels?—A. Yes, sir.

Q. The length of the line, you said, was 16 miles?—A. Yes, sir.

Q. What was the capacity of the line?—A. I would have to figure that out.

Q. Figure it out. It is a 6-inch line, 16 miles long?—A. About 2,952 barrels.

Q. If the total contamination was 260 barrels, what percentage of the oil, that is, that percentage of the capacity of the pipe, would that be?

Mr. KELLOGG. Of the 16-mile pipe, you mean?

Mr. CRAWFORD. I mean the 16-mile pipe.

A. A little over 8 per cent.

Q. About 8½, isn't it?—A. I could carry it out.

Mr. KELLOGG. That is near enough.

Q. 8 or 8½ per cent. Supposing no other cause intervened to increase the contamination, are you able to state whether the rate of mixture or contamination between these oils that you used would continue?—A. Yes, sir.

Q. As it went on into a longer pipe?—A. Yes, sir; it would continue.

Q. That is, at the end of 32 miles you would have approximately twice as much?—A. Twice as much.

Q. But the same percentage?—A. The same percentage would hold good all the way through.

Q. So that it would be a constant percentage so far as the 12211 length of the pipe is concerned, would it?—A. Yes, sir.

Q. And on a pipe of a given length, it would be substantially a constant quantity, would it?—A. Yes, sir.

(Fig. 14 of the blueprints was marked "Defendants' Exhibit 241," fig. 15 "Defendants' Exhibit 242," and fig. 16 "Defendants' Exhibit 243.")

Q. Referring to figs. 15 and 16, defendants' Exhibits 242 and 243, which purport to show similar diagrams for other gravity tests, I think you said you were not present when those were made?—A. No, sir.

Q. Who had charge of those tests?—A. Mr. Weymouth.

Q. They were made, I see, in the month of December, 1907?—A. Yes, sir.

Q. While you were not present and, therefore, can not testify as to the accuracy of the observations or the data, have you compared the data as furnished you by Mr. Weymouth with this diagram to see whether this correctly works up the data?—A. Yes, sir; I have made the comparison.

Q. And does it do so?—A. Yes, sir.

Q. Assuming for the present that the observations were taken correctly and the data furnished you by Mr. Weymouth were correct (we will prove that by Mr. Weymouth), then, I wish you would go on and take fig. 16 and describe it.—A. On fig. 16, defendants' Exhibit 243, the observation was started about 11.13 in the morning. They were taken at intervals, as shown, and we find the gravity of the samples increasing, going higher all the time, and continuing until, say, 11.55, when they go higher much more rapidly,
12212 until they get about to 12.10, and then they increase very slowly until about 12.18, when they have reached the gravity of the lighter oil.

Q. This was what kind of oil in front and what kind behind?—A. This was heavy oil in front and light oil behind.

Q. Both Pennsylvania oils?—A. Both Pennsylvania oils.

Q. Substantially similar or very similar condition to those shown in fig. 17, were they not?—A. Yes, sir.

Q. You mean, then, at the first observations on the gravity, at between 11 and 11.15, you had the gravity of the heavier oil?—A. Yes, sir.

Q. And that this increased first gradually and then rapidly, until finally, after something like an hour, you have risen to the gravity of the lighter oil, and then thereafter you continue on the lighter oil?—A. Yes, sir.

Q. What do you find to be the time during which there is indicated a mixture by the observations?—A. About an hour and five minutes here.

Q. That is to say, for an hour and five minutes in that test mixed oil was passing the point of observation?—A. Yes, sir.

Q. Now, that is a very considerable variance, apparently, from the results shown in the test No. 3, in fig. 17. Is there any circumstance which would tend to explain that difference?—A. One difference is we had a shorter line in fig. 17 than we had in 16. And another reason for the difference is, that when fig. 16 was taken and those tests were made, it was in the middle of December, when the weather was colder than in fig. 17, in May, when the temperature was much warmer.

12213 Q. How would that temperature in December affect it?—A. It changes the viscoscity of the oil. The colder the temperature the greater the viscoscity.

Q. That would mean, as applied to this particular problem, that the gravity would change more slowly? Do you mean that in cold weather, in these tests, the gravity would change more slowly?—A. Yes, sir; it would be more of a mixture.

Q. So that the period of the mixture would be more prolonged, would it?—A. Yes, sir.

Q. Whereas, in warmer weather it would be shorter?—A. Yes, sir.

Q. You said something about the length of the pipe. What was the length of the pipe in these tests in fig. 16, if you know?—A. In fig. 16 the length of the pipe there was about 24 miles.

Q. That would have a tendency to increase the time during which the mixed oil was passing, would it?—A. Yes, sir.

Q. According to your former testimony it would be something like one and a half?—A. One and one-half times as much, under the same conditions.

Q. So that would account for part of it?—A. Yes, sir.

Q. And the rest of it, you think, would be accounted for in the difference in the temperature?—A. Yes, sir; changing the viscoscity of the oil.

Q. Now, in both of these tests you displaced heavy oil with light oil, did you?—A. Yes, sir.

Q. Was there a test tried when the heavy oil displaced the light oil?—A. Yes, sir.

12214 Q. That is shown in fig. 15, isn't it?—A. Yes, sir.

Q. Describe that briefly.—A. That is the same way, with the same apparatus. At 11.13 there is an observation taken. There is no material change until about 11.42, when the change is quite a rapid change and dropped down until 11.47 or 11.46, when it almost got to the gravity of the heavier oil, and then it continued.

Q. That would indicate, then, that whenever heavy oil displaces a lighter oil, the change is very rapid?—A. Yes, sir.

Q. From one to the other?—A. Yes, sir.

Q. And what would that indicate as to the amount of mixture at that point?—A. The mixture would not be so much.

Q. It would be relatively small, wouldn't it?—A. It would be relatively small.

Q. You found there was a much greater mixture when the lighter oil displaced the heavier than there was when the heavier oil displaced the lighter?—A. Yes, sir.

Q. Now, in your pipe line systems, where you have different grades of oil, where you have some lighter oils and where you have some heavier oils, do they alternate?—A. Yes, sir.

Q. Sometimes one and sometimes the other?—A. We have to do that; have to alternate them.

Q. So that if you had a particular lot of heavy oil displacing light oil, that heavy oil itself would be displaced by another batch of light oil, wouldn't it?—A. Yes, sir.

Q. So that in order to determine the total amount of mixture resulting from the passage of this heavier oil, it would be
12215 necessary to take the mixture at the head of it, where the heavy displaced the light, and the mixture at the rear where the light displaced the heavy, would it not?—A. Yes, sir.

Q. And the sum of those two, roughly speaking, would be the total mixture?—A. Yes, sir.

Q. Do you happen to know the rate of flow in the test shown in fig. 16?—A. I do not know, but I think about 500 or 600 barrels an hour.

Q. My memorandum shows that it was 495 barrels an hour. Would that be about your judgment?—A. That is probably what it was.

Q. Assume that is correct—that is less than the amount you name—assume it was 495 barrels an hour in the test shown in fig. 16, will you figure out the amount of mixture which is repersented by this diagram?—A. A little over 11 per cent.

Q. Will you state how much it would be in barrels, or how much it was in barrels?—A. About 500 barrels.

Q. That is, assuming that the contaminated oil was about an hour in passing, that would mean there were about 500 barrels of mixed oil passed?—A. Yes.

Q. I think you said in this test the line that you used was 24 miles long.—A. Yes, sir.

Q. You mean by that that at the place where you took your observation, the oil had traveled 24 miles?—A. That is from the pump.

Q. And you mean to say that the amount that went through there, that contaminated amount, about 500 barrels, was about 11
12216 per cent of the total capacity of the pipe; is that what you mean?—A. 11 per cent of the total content of the pipe.

Q. And would the same thing hold true with reference to fig. 17, that this rate once established would continue?—A. Continue right through.

Q. Progressively through the distance?—A. Yes, sir.

Q. The longer the distance the greater the amount?—A. Yes, sir.

Q. Until you reach the end of the line?—A. Yes, sir.

Q. Now, where you have a composite pipe line, with a number of pipes of irregular diameters, and different in number as you stated at different points, and the length of the pipe line, would both of the causes which you have described as tending to contaminate work together?—A. Yes, sir.

Q. That is, these causes which you have described here at length, resulting from the mixture in the single pipe, and also the contamination of the mixture due to the difference in velocity in the pipes, they would act together at the same time, would they?—A. Yes, sir.

Q. And the amount of the resulting mixture would be some resultant of the two?—A. Yes, sir.

Q. Together with those other causes which you spoke of?—A. Yes.

Mr. CRAWFORD. I offer in evidence all the exhibits referred to by this witness. I don't know whether I have got them all in or not. I suppose you want to make the same objection, Mr. Kellogg?

Mr. KELLOGG. Yes; the same objection.

12217 Cross-examination by Mr. KELLOGG:

Q. Mr. Page, referring to defendants' Exhibit 244, which is fig. 17, see if I understand that. There the heavy oil, say, was put

in the pipe first and followed by lighter oil. Is that correct.—A. Yes, sir.

Q. The gravity of the heavy oil was 35.4?—A. Yes; 35.4.

Q. In any oil there is more or less small variation in the gravity, isn't there?—A. Very small.

Q. You take the Bradford heavy oil, it runs about what?—A. I don't know. I suppose maybe near 40. I don't know just what the gravity is.

Q. Well, take this 35.4 oil.—A. Yes.

Q. That is a heavy Bradford oil?—A. That is what we call a heavy Pennsylvania oil.

Q. That heavy oil will vary as much as a tenth of a degree, will it not?—A. Oh, yes; possibly 2 degrees.

Q. Possibly 2 degrees?—A. Yes.

Q. So the nearest you can get to that would be an approximation of a fraction of a degree, wouldn't it?—A. Yes, sir.

Q. I have no doubt it was taken accurately; 35.4 was the nearest you could get to the degree of the gravity of that heavy oil that you put into the pipe, wasn't it?—A. Yes, sir. We took a number of them.

Q. But in that same oil, at different places in the pipe, it might vary a tenth or a fifth of a degree?—A. Yes, sir.

12218 Q. So that in running any oil, take the high-grade Pennsylvania oil, it will vary at different places in the pipe, different amounts of the oil, a part of a degree?—A. Yes, sir.

Q. And perhaps a whole degree?—A. Yes, sir.

Q. Or as high as 2 degrees?—A. Probably 2 degrees is a little too much, but what I had in mind was in localities, not in the pipe line. What I had in mind was oil from the same localities, in the field.

Q. In the pipe line itself it will vary some?—A. It will vary some; yes, sir.

Q. The amount of agitation of the oil affects it to some extent, doesn't it—the fraction of a degree?—A. I do not see how you can change it with agitation. You may shake it up all you want to, but it is still the same gravity.

Q. Evaporation would change it, wouldn't it?—A. Yes; evaporation would change it, but it could not evaporate in the pipe line.

Q. Temperature will change it, won't it?—A. Yes; but we make corrections for that.

Q. You started with heavy oil, 35.4, as nearly as you could get at it?—A. Yes.

Q. Then you put in after that light oil, of 45.77?—A. Yes, sir.

Q. And, of course, your answers as to the variation would apply to the lighter as well as to the heavier oils?—A. Yes, sir.

12219 Q. Then you pump that oil for a distance of how many miles before you took your test?—A. One of these tests was 16 miles and the other was——

Q. I am talking now about fig. 17.—A. 16 miles.

Q. We will assume that you started the light grade of oil behind the heavy, and you pumped that so that the division line would have traveled 16 miles?—A. Yes, sir.

Q. Then you took the test?—A. We took the test before that division line would reach a testing point.

Q. Yes; just before the 16 miles?—A. Yes.

Q. Sufficient distance before the 16 miles so you could get the test. How far would that probably be?—A. Oh, we could probably figure within half an hour.

Q. That is, you took the test after it had traveled 16 miles?—A. Yes, sir.

Q. But you began testing it a little while before it got to the end of the 16-mile section, didn't you?—A. Yes. Our test was at the 16-mile section. We tested the oil we got there at that time, and waited until the oil passed up.

Q. You took a point 16 miles from the starting?—A. That was the stationary point.

Mr. CRAWFORD. You tested it at the stationary point?

WITNESS. Yes, sir.

Mr. CRAWFORD. Then you came to the point where the mixture was?

WITNESS. Yes.

Mr. CRAWFORD. Half an hour beforehand, did you say?

12220 WITNESS. I don't know, but it was some little time.

Q. Now, is it not a fact that at 1.10 the oil showed 35.5?—A. Yes, sir.

Q. Making a variation of only $\frac{1}{10}$ of one degree from the test of the heavy oil that you put in the pipe?—A. Yes, sir.

Q. That variation is liable to occur almost anywhere in the pipe, I suppose?—A. It might, but you see the variation going one way here.

Q. I understand. Now, starting with that oil of 35.5 gravity at 1.10, at 1.17 the gravity of the oil was 44.9, about, wasn't it?—A. Why, at 1.17 it would be over 45.

Q. Perhaps I have not followed the lines with absolute accuracy. At 1.16, then, it was 44.9, wasn't it?—A. Yes, sir.

Q. At 1.16 it was 44.9?—A. Yes.

Q. And at 1.17 it was what?—A. At 1.17 it was about 45.1.

Q. So that substantially all of the mixture that would amount to anything occurred in 7 minutes' passing, didn't it?—A. That is, the greatest part of the mixture; yes.

Q. Any mixture of the balance of that would be a perfectly unimportant thing in the pipe line, wouldn't it?—A. Well, I could not say that. That would depend on the refiner's standpoint.

Q. The difference between oil of 45 degrees and 45.7 never enters into the question of refining to any practical extent, does it?—A. So far as difference of gravity is concerned it would not make any difference, but there may be a difference in the quality.

12221 Q. Oh, well. Assume there was no sulphur in it. Take that Pennsylvania oil, that 45-degree oil, there isn't any practical difference in $\frac{1}{10}$ of one degree, is there?—A. No; I would not consider it so.

Q. Unless the oil had some injurious ingredients, like sulphur or something that would injure the oil, the amount of mixture that occurred after 1.17 would not amount to anything, would it?—A. Probably not.

Q. So that in 7 minutes the oil had passed by, so as to be practically pure, high-grade oil?—A. That is, if you are assuming that the two oils are of about the same quality.

Q. Yes; that is, if there was no ingredient in them that would be injurious to the oil, simply a question of degree of gravity?—A. If that were all the difference, there should not be very much difference.

Q. Do you know anything in the high-grade Pennsylvania oils which are usually transported that would make any material difference between a 45 and 45.7 grade?

Mr. CRAWFORD. Were these both high-grade Pennsylvania oils?

WITNESS. One is a low-grade and the other is a high-grade.

Q. Is there any ingredient in any of these oils that——A. I don't know. The refiner would know more about that than I would.

Q. Well, we will see about that. How much oil would pass in that 7 minutes?—A. It would be $\frac{7}{6}$ of the rate of pumping.

12222 Q. $\frac{7}{6}$ of 538 barrels; figure that out, please.—A. That would be almost 63 barrels.

Q. Almost 63 barrels out of how many that the 16 miles would hold?—A. 16 miles from the initial point?

Q. What?—A. 16 miles from the initial point?

Q. Yes. Figure out how much 16 miles will hold.—A. I have it here some place.

Q. You testified to that.—A. 16 miles will hold 2,952 barrels.

Q. This would be what percentage of the total?—A. A trifle over 2 per cent.

Q. Now, if you reverse that, if the light oil is put in first and the heavy oil follows, the mixture is very much less, isn't it?—A. Yes, sir; that has been our experience.

Q. Referring to fig. 15, defendants' Exhibit 242, practically all the changes took place in three minutes, didn't they?—A. Yes; that is the way it is indicated here; the biggest part of the change took place in three minutes.

Q. And that was also in December?—A. That was in December.

Q. The one I first examined you about, where the principal change took place in 7 minutes, was in May, 1908, was it not? Fig. 17.—A. Yes; about 7 minutes; 7 or 8 minutes.

Q. That was in May, 1908?—A. Yes.

Q. Now, this one, in which a comparatively long time for the change occurred, was in December, was it not?—A. Yes, sir.

Q. The light oil displacing the heavy oil. In that case the

12223 change between 11.50 and 12.10 covered substantially all the

mixture, didn't it?—A. Well, of course, it covered the greater part of it, but I could not say substantially, because there was quite a mix-up preceding that.

Q. Well, from 11.20 to 11.50 the change in the gravity was only——

Mr. CRAWFORD. A degree and a half.

Q. ——less than 2 degrees? About a degree and a half?—A. Still that is quite a change.

Q. Now, do you say in that grade of oil, Mr. Page, that a degree and a half cuts any figure whatever as a refining proposition?—A. Of course, I don't know anything about the refining business.

Q. Well, does it in the handling of those oils, as a practical thing?—A. Probably not; I don't know.

Q. Did you make any other tests than these three you have shown here?—A. I believe these are about all that I made in this series of tests.

Q. Did you make any other tests of this kind besides these three?—A. Oh, these three?

Q. Yes.

Mr. CRAWFORD. Mr. Kellogg means these three gravity tests.

Q. These three gravity tests.—A. I will look and see. That is all.

Q. Those are all the tests you actually made at the time?—A. That is, of these special tests.

12224 Q. Did you make any other special tests than those?—A. Oh, I know in a general way in pumping; we have mixtures of oil in pumping.

Q. Now, tell me your position with the pipe-line companies.—A. I am on the engineering staff.

Q. Where are your headquarters?—A. I am located at Oil City, Pennsylvania.

Q. Who are the other engineers?—A. There are Mr. Weymouth, Mr. Smedley, and I could mention several others.

Q. Which company are you employed by?—A. The National Transit Company.

Q. Have you had any experience with the Lima oils?—A. Yes, sir.

Q. And with the Illinois oils?—A. I know about them, but I have not had very much experience with the Illinois oils.

Q. And the Kansas and Oklahoma oil?—A. Just had a little experience; not much. I would say practically nothing there.

Q. Now, you transport oil by the pipe lines from western Pennsylvania to various eastern points, New York Harbor, do you not? I say you; I mean the pipe-line companies.—A. Yes; the company.

Q. You have a high-grade Pennsylvania oil and a low-grade Pennsylvania oil?—A. Yes, sir.

Q. To what refineries or to what places do you transport the low-grade oil and the high-grade Pennsylvania oil?—A. I could not answer that. You would have to get some other witness to tell you that, for I am not sufficiently acquainted with that part of the business.

Q. In the operation of the pipe lines, you are a practical pipe-line operator, aren't you?—A. I know; but I am on the
12225 gathering end of it.

Q. You are on the gathering end?—A. Yes, sir.

Q. I know, but you know how they run the oil into the trunk lines, don't you?—A. I know how they run the oil into the trunk lines; yes, sir.

Q. How does the Standard manage to run this high-grade and low-grade into the trunk lines when they wish to transport the two kinds of oil? Do they do it in separate pipes?—A. Oh, no; they do it in the same pipes, as a usual thing.

Q. Suppose they wish to run a certain amount of high-grade oil to one refinery at the seaboard and a certain amount of low-grade oil to that refinery, keeping them separate, how is it done?—A. They try to pump through as large blocks as possible, so as to make the contamination of as low per cent as possible, and they get through all they can of one and then of the other.

Q. It is practicable, then, in the transportation of oil, to pump through a low grade and then follow it with a high grade, or pump through a high grade and follow it with a low grade, if a sufficient quantity of each is used at the time of pumping?—A. You can pump it through, but of course there is so much contamination.

Q. But they do not mix all of their Pennsylvania oils, do they?—A. No; they do not mix them. They try to keep them separate as far as they can.

Q. In other words, you use the same pipes for transporting a large quantity of low-grade oil to New York which you use for transporting a large quantity of high-grade oil to New York?—A. I can not say we always do that, because I am not
12226 familiar with that.

Q. Not always; but you know they do sometimes?

Mr. CRAWFORD. You are not on the trunk line?

WITNESS. No, sir; I am not on the trunk line.

Q. Well, you know how they put oil into the trunk line, don't you?—A. The trunk line is beyond my jurisdiction entirely.

Q. You say you understand how they handle it in transporting the two kinds of oil?—A. Yes, sir; I have transported myself on some lines, and we put in one block as large as we can of one grade, and when we have to change we change, but we try to make the changes as far apart as possible.

Q. So you are a man who has had a great deal of practical experience in operating pipe lines, aren't you?—A. Oh, I have had some experience; yes.

Q. So that in the practical operation of pipe lines you can practically transport a high-grade oil and then a low-grade oil without mixing a large enough quantity of it to be of particular injury to the oil?—A. No; I would not say that.

Q. Isn't that the way it is done all over the country?—A. I know it is done, but we have a certain amount of contamination.

Q. But the contamination is not large enough but what you keep the great bulk of the oil separate, don't you?—A. Yes; we try to keep it separate all we can.

Q. The great bulk of it is kept separate, isn't it?—A. Yes.

Mr. CRAWFORD. Where you transport it in large amounts?

Mr. KELLOGG. Yes; that is what I am talking about.

12227 WITNESS. Yes; where we transport it in large amounts we try to keep it separate.

Q. For instance, do you use the same lines to New York for the transportation of Lima-Indiana crude as you do for the Pennsylvania crude?—A. Personally, as far as my personal knowledge is concerned, I do not know even whether they pump Lima oil to New York or not. All I know about it is that we get it into the trunk lines. After that I don't know anything about it.

Q. You give it to the trunk lines out in Ohio and Indiana?—A. Yes, sir.

Q. Do they also pump Lima-Indiana oil to Whiting, Indiana?—A. I don't know whether they do now or not, but they used to.

Q. They used to?—A. Yes, sir.

Q. At the same time did they pump Pennsylvania oil there?—A. I never knew of Pennsylvania oil to be pumped there.

Q. They pumped Lima-Indiana oil there exclusively?—A. That is, at one time; yes.

Q. Now, you say you have had some experience in pumping the Oklahoma and Kansas oil?—A. All the experience I have had is sometimes making some computation. So far as the handling of the oils is concerned, I never had any experience.

Q. What computations and what experience?—A. Trying to figure out just how much we can get through a pipe line.

Q. How much you can get through a pipe line?—A. Yes; I might say I have had practically no experience there at all except——

12228 Q. How many lines have they got from Oklahoma and Kansas to Whiting?—A. I could not tell you; I do not know.

Q. Then, what branch of the pipe line were you engaged in working on?—A. When it comes east, if it is pumped east, we have our own lines, and I had to figure out about how much we could get through with those lines.

Q. Very well; that is what I want to know. Then, they do pump Oklahoma and Kansas oil—we will call that mid-continent oil—to the Atlantic seaboard, do they?—A. To my knowledge, that is, as far as I know, they do. I know they pump eastward.

Q. It passes through some of the pipes in your jurisdiction, doesn't it?—A. Yes; it goes eastward, but I don't know where it goes; that is, what refinery takes it.

Q. Do you mix that in the pumping with the Lima-Indiana oil or the Pennsylvania oil?—A. There is a mixture every time you go pumping.

Q. I know, but do you mix it any more than is necessary in the division line, the two oils?—A. No; just pump in blocks.

Q. That is it; pump in blocks. Do you use through your territory one pipe for Kansas oil exclusively and another pipe for Lima-Indiana oil?—A. I do not know as we do it; no, sir.

Q. You don't know that?—A. No, sir; I do not know that we do so.

Q. Do you know that they do not?—A. No; I do not know they do not.

12229 Q. What is your jurisdiction, over what lines now?—A. Why, I have no jurisdiction over any lines. I am simply in the engineering department. As to some of these questions, the superintendent asks me what they can do. I try to give him that information. I have no jurisdiction over the line, though, at all.

Q. No, but I want to know your experience over these lines. Give us the names of your superior officers in the pipe line transportation.—A. You mean in the engineering department?

Q. Engineering and in charge of the pipe lines of the Standard Oil companies.—A. In the gathering line system Mr. A. Smedley is the chief engineer.

Q. In the gathering lines he is the chief engineer?—A. The chief engineer.

Q. Where are his headquarters?—A. Oil City.

Q. Does that cover all the gathering lines—Pennsylvania, Ohio, Indiana, Illinois?—A. We have no jurisdiction even over these lines, remember. We just simply give information to superintendents who have jurisdiction.

Q. I understand he is engineer of all the gathering lines of the Standard companies.—A. I can not say of all the lines, but around that locality they look upon him as chief engineer.

Q. What locality?—A. Around Pennsylvania or——

Q. Ohio?—A. Ohio.

Q. Indiana?—A. Probably Indiana.

Q. Illinois?—A. I think he has nothing to do with Illinois.

Q. Nothing to do with Illinois?—A. Yes.

12230 Q. You are next to him, are you?—A. I am his assistant.

Q. You are his assistant, and what other assistant has he?—A. Mr. Weymouth is his assistant.

Q. Now, the main lines; do they have a separate engineering department?—A. I believe they have. Sometimes questions are asked us as to what a main line will do.

Q. Do you know of any engineers of the main line?—A. Mr. Towl is one of the engineers.

Q. What is his full name?—A. Forrest M. Towl.

Q. Do you know any of the other engineers of the main line?—A. Not any that I am acquainted with.

Q. Now, who has general charge of the pipe-line system? You spoke about the superintendent. Who is the general superintendent?—A. We have a division superintendent; for instance, in the gathering lines around Oil City we have Mr. Williams. He looks

after the gathering lines there, just as to taking the oil in from the producers' tanks.

Q. Who has general charge of all the pipe lines of the Standard Oil Company?—A. It is pretty hard for me to say.

Q. You do not know?—A. I do not know.

Q. Is Mr. Williams' jurisdiction restricted to the gathering lines?—A. The gathering lines in and around Pennsylvania, part of them.

Q. Who has charge of the trunk lines of Pennsylvania?—A. Why, there is a division superintendent. Now, for instance, there are two or three division superintendents. They report to the general superintendent.

Q. Who is the general superintendent of the whole busi-
12231 ness?—A. Why, with the trunk lines it is this way: Mr. Bushnell is——

Q. Bushnell?—A. Douglas S. Bushnell.

Q. Where are his headquarters?—A. Right here in New York.

Q. He is general superintendent of all the lines, is he?—A. Of the trunk lines, as far as I know.

Q. All the trunk lines?—A. Yes, sir.

Q. That includes the lines in Ohio and Indiana?—A. I am not sure about that.

Q. And Illinois?—A. Illinois is separate. I don't think he has anything at all to do with it.

Q. Or the lines in Kansas and Oklahoma to Chicago?—A. I do not believe he has anything at all to do with those.

Q. How came you to be consulted about the lines from Kansas to Chicago?—A. I was not consulted about the lines from Kansas to Chicago, only as that oil comes east on our eastern lines; I am sometimes asked to make some computation as to what they can get through these lines.

Q. That is, they do transport those oils through divisions where you work as an engineer?—A. Yes, sir.

Q. And you have been asked about the practicability of transporting that oil through your pipes?—A. Generally the quantity, what quantity they can get through.

Q. So, then; you do know that they transport the mid-continent oil from Oklahoma and Kansas to the seaboard without——A. I could not say they did to the seaboard.

Q. Well, to the east?—A. Yes; to the east some place.

12232 Q. They do not transport it generally to the refineries right in your neighborhood, do they?—A. Not that I know of, although I am not sure of that either.

Q. It goes east by your lines, anyway, or through your lines?—A. Yes.

Q. Without any other mixture than that which incidentally occurs, which you have described?—A. Described as mixing in different velocities and the loops, and so on.

Mr. CRAWFORD. You mean from all the causes that you have described?

WITNESS. Yes, sir; from all the causes mentioned.

Q. Now, do you know that they do not have a pipe which they use exclusively for mid-continent oil, for transportation to the East?—A. Not to my knowledge; I don't know anything about that.

Q. Do you know whether they do or not?—A. I do not know whether they do or not.

Q. But you know you have transported some of it through pipes where you have jurisdiction?—A. Some of it; yes.

Q. Now as to the Lima-Indiana oil, do you know whether they do not have a separate line in which they transport oil from the Lima-Indiana field to New York Harbor?—A. I do not believe they have.

Q. You do not believe they have?—A. No, sir.

Q. Do you know whether they have or not?—A. I would not know. I do not know what arrangement they have; in fact, I do not know how many lines they have got laid.

Q. You do not?—A. No, sir.

12233 Mr. CRAWFORD. Don't they transport other oils through the same pipe that they transport the Prairie oil that goes past you?

WITNESS. Yes, sir.

Mr. CRAWFORD. You do not mean to say that was a pipe used exclusively for that oil at the point where you observed it?

WITNESS. No, sir; they pump other oils.

Q. Do you know that they pump Lima oil through the same pipe with mid-continent oil?—A. As far as I know they do.

Q. You have known of their doing so?—A. I could not say. That has been my opinion, that they have done it. You know I have not been on the ground to see them do these things.

Q. Oh, no; but as engineer you are consulted on the subject, aren't you?—A. They ask me sometimes if they——

Q. What are your duties as engineer?—A. Just to give advice on the things I have mentioned. If a superintendent wants to find out what he can do or what he can't do, he asks the engineering department.

Q. Suppose he wants to know how he can transfer Lima-Indiana oil through the same pipe line that he transports a higher grade of Pennsylvania oil, would he ask you?—A. No; he might not ask me. All he would want to know would be how much they could get through.

Q. How much you could get through?—A. Yes.

Q. Well, they know the capacity of the pipes, don't they?—A. The capacity of the pipes would be different for different oils.

12234 Q. Well, very well. They want to know from you how much you think it would be practicable to put through in one large body, to make the mixture as little as possible?—A. They might ask me some such question as that.

Q. You are an expert on that subject, are you?—A. I can not say that I am an expert, but I can tell them pretty closely what they can do.

Q. You have had such questions addressed to you, have you?—A. What questions?

Q. As to how much of the separate grades of oil you can put through without mixing them?—A. Oh, no; I didn't say without mixing them. Of course there is that mixture going on all the time.

Q. I do not mean without any mixture whatever, but I mean as a practical pipe-line transportation man?—A. In fact, we have never had any law of mixing until some of these tests were made here a short time ago. What we have directed the men to do is to take samples as oils come along. They have been directed after the oil has dropped or raised to a certain gravity to switch it off into some tank.

Q. That is, you have a system by which you transport different grades of oil through the pipe at different times, haven't you?—A. Yes.

Q. Now, just tell us how you do that, Mr. Page. I want to know all about it.—A. They take through, as I say, as large a block as they can, until that is exhausted at the initial point; and then they will take up another block of oil, or another kind, and put it right in after.

12235 Q. Now, suppose you run into your pipe in Pennsylvania an amount of high-grade oil which you want to transport, we will say, to the Bayonne refinery, and then you want to transport to another refinery down here, say to the Pratt works, an amount of low-grade oil. Tell us just how you would do it, and how you would cut it off, etc.—A. Just pump right on through, keep it up as long as we can, until the Pratt works want to get the lower grade. We would then get in a block for them. And then, of course, we take samples there, and just as soon as that low-grade oil came out, just what we wanted to go into the Pratt works we would switch it off to the Pratt works.

Q. There is a division point over here in Jersey, somewhere, where that is done, isn't there?—A. I don't know as to that.

Q. In other words, after you have pumped the high-grade oil to the Bayonne works until it begins to run low grade, then you cut it off, you say, and switch it to the Pratt works?

Mr. CRAWFORD. Do you know anything yourself about that?

WITNESS. No; I have no personal knowledge about that at all.

Mr. KELLOGG. No, I don't suppose he follows the oil, but he is an expert.

Mr. CRAWFORD. He isn't on the trunk lines. That is a trunk-line question.

WITNESS. That is a trunk-line question and I have nothing to do with it.

Q. That is the way it has got to be done, isn't it?—A. I suppose that is the way it has got to be done. I don't know just how they do it.

12236 Q. You say you have been asked about that?

Mr. CRAWFORD. No; he did not.

WITNESS. Not on these trunk lines.

Q. On your end of it.—A. On these lines out there where I am located I am probably asked sometimes what they can get through.

Q. Then you tell them how to pump it into the trunk line there at that end, don't you?

Mr. CRAWFORD. What do you mean by what they can get through?

WITNESS. The rate of pumping.

Mr. CRAWFORD. You mean the daily rate of pumping?

WITNESS. I mean the daily rate of pumping; how they can get a certain quantity through.

Q. Now, supposing you had 50,000 barrels of high-grade Pennsylvania crude which you wanted to send down to the Bayonne refinery, and you had 50,000 barrels of high-grade crude which you wanted to send to the Pratt works. You are expert enough and have had experience enough to tell them how to do it?—A. That would be too small a block.

Q. What amount would you tell them?—A. I don't know about that. Just what they find out.

Q. You don't know just how small an amount could be used?—A. I could not tell you. But I would say 50,000 is altogether too small for the prevention of contamination.

Q. How small an amount would you figure?—A. That I don't know.

Q. Who would know in the pipe-line transportation busi-
12237 ness?—A. It would be hard for me to tell.

Q. It would be hard for you to tell?—A. Yes, sir.

Q. You have two different-sized pipes in your loops?—A. Often; yes, sir; quite often.

Q. Very often?—A. Yes.

Q. How does that occur?—A. We want to increase our capacity up to a certain amount; probably our main line as originally put in is not large enough, and we find out that as our volume of business increases we have to make it larger. We find sometimes that it is cheaper to put in a loop of a larger size to attend to the increased capacity. Probably that is the most practicable thing to do. It depends entirely upon the grades over the country. I spoke this morning about a flat grade and a steep grade.

Q. They have maps showing all of their pipe lines, haven't they?—A. Pretty much all; yes, sir.

Q. The size of pipe, loops, and everything else, haven't they?—A. Very nearly all.

Q. Have you got those maps in your office?—A. No, sir.

Q. In whose office are they?—A. I don't know where they are. They are around some place. Remember, we haven't anything to do with loops on the trunk line. I don't know anything about the loops on a trunk line.

Q. Do you know whether they have any different-sized lines on the loops in the trunk lines or not?—A. They have; yes.

Q. How do you know?—A. Because I have talked with the superintendent.

12238 Q. That is all you know about it?—A. That is all I do know, from hearsay.

Q. Have you seen maps of the trunk lines?—A. I have seen some; yes.

Q. Where?—A. Well, I can't——

Q. At what office are they kept?—A. They are given out really in piecemeal. Every division superintendent, generally, has got a map of his division.

Q. Where do they come from?—A. I don't know. I can't tell from personal knowledge just where they do come from.

Q. Do you know whether they are down here in 26 Broadway, their maps of trunk lines, or whether they are scattered around?—A. I don't know where they are made. I have seen them.

Q. Have you seen them here in the office at 26 Broadway?—A. I could not say that.

Q. Where are they sent to you from?—A. Where are they sent to me from?

Q. Yes; from what place?—A. I have just seen them; I have seen one or two of the division superintendents, and he has shown me his line, his section.

Q. How many grades are there of Pennsylvania oil which are kept separate?—A. Oh, that I don't know, how many grades. I know there are two, anyway. Whether there are any more or not I don't know.

Q. What are those two called?—A. Called low grade and high grade.

Q. Don't they have other names for them?—A. They may have.

12239 Q. High-grade oil runs about what?—Oh, probably 46 or 48.

Q. And the low-grade oil runs what?—A. 34 or 35.

Mr. CRAWFORD. That is not any part of your duty, to know about those grades, is it?

WITNESS. No.

Mr. CRAWFORD. We will put a witness on the stand who will tell you all about them.

Mr. KELLOGG. I don't want to waste time on this man if you are going to have a man that knows about practical transportation.

Mr. CRAWFORD. We will put a witness on who knows all about these things.

Q. How many tanks do you usually have at a pumping station on a trunk line?—A. Generally two, and sometimes more.

Q. What is the object of having two tanks?—A. So we can check our oil. Incoming oil is measured in one tank and outgoing in the other.

Q. At some stations you have a good deal more than two?—A. Where we have storage, yes; put up more for storage.

Q. Do you have more than two except where you have storage?—A. I could not say as to that. There are several places where there are probably only two, and they may have more at other places.

Q. What is the usual size of those tanks?—A. The standard size is about 35 or 37 thousand barrels.

Q. 35 thousand to 37 thousand barrels?—A. Yes; the standard-sized tanks. Sometimes working tanks are smaller.

12240 Q. You said you have been asked at times to estimate what quantity of oil you could get through a pipe line of different grades; did I understand you?—A. Yes; sometimes.

Q. That is, what quantity of high-grade oil followed by low-grade oil or vice versa?

Mr. CRAWFORD. He didn't say that.

Mr. KELLOGG. I want to see if I understood him.

WITNESS. No; I have sometimes been asked to find what a pipe line will do in a certain length of time under some initial pressure; how much we can get through.

Q. How much of any kind of oil it will transport?—A. How much we can get through in one line.

Q. What is your experience in running into the trunk lines different grades of oil, as to keeping them separate? Please tell us your experience.—A. Oh, we can not keep them separate, except just in the way I have said before.

Q. I understand that.—A. We try to keep as large a block as possible, and then when we have got to pump that kind of oil we pump it as long as we can, and then we try to get in another block and try to make that block as large as we can.

Q. How large an amount do you recollect of having transported?—A. I don't know.

Q. You have no recollection?—A. I have no recollection. I know it is not very small amounts that we try to get through.

Q. Do you have any recollection of transporting 100,000 barrels?—A. No; I have not. I have known of transporting

12241 more than that.

Q. How much?—A. Probably 300,000, or something like that, or 400,000.

Q. 200,000?—A. Well, I can not say that even. Maybe there has been some 200,000.

Mr. CRAWFORD. From what point?

WITNESS. I don't know.

Mr. CRAWFORD. You mean from Oil City or from your neighborhood?

WITNESS. Oh, I could not tell. I was thinking more of Lima oils.

Q. Lima oils?—A. Yes.

Q. That is, you have known of their transporting 300,000 barrels of Lima oil, then following it with Pennsylvania oil?—A. Oh, no. It did not follow. Out in Ohio, Pennsylvania is not——

Q. Follow it with what other kind of oil?—A. They have two kinds of oil in Ohio, North Lima and South Lima.

Q. The North Lima is better than the South?—A. Yes.

Q. That is, Lima-Indiana oil is of two grades, practically?—A. Yes.

Q. That is about all, isn't it?—A. Yes.

Q. Now, you say you have known of 300,000 barrels of one of those grades of oil going through, then to be followed by the other?—A. It would be all of that.

Q. What?—A. All of our blocks are all of 300,000 barrels.

Q. Are some of them less?—A. They may be; yes.

12242 Q. How much less?—A. I could not tell you that. I do not keep track of those things at all.

Q. You have no recollection?—A. No, sir.

Q. That is, you do transport the different grades of oil; you know of transporting it in 300,000-barrel blocks?—A. Probably that.

Q. Is a record kept of the amount of oil run, an accurate record?—A. Oh, there may be. There undoubtedly is some place.

Q. What I want to know is why they would ask you about this proposition if you do not keep track of it.

Mr. CRAWFORD. He does not say that; he has not said so.

A. The engineer's office does not keep track of those things.

Mr. CRAWFORD. He has not testified that he was asked about that at all.

Mr. KELLOGG. I didn't know but I misunderstood him, that is all.

Mr. CRAWFORD. What you were asked about was the capacity of a certain line, for a certain kind of oil, at a certain rate of pumping, wasn't it?

WITNESS. Yes, sir; just from an engineer's standpoint, to compute the velocity of the oil; just how much we could get through a pipe line in an hour or in 24 hours.

Q. Now, tell me what process you have. Assuming you are pumping 300,000 barrels of Lima-Indiana oil and you want to follow it with 300,000 barrels of Kansas-Oklahoma oil?—A. Yes, sir.

Q. Tell me just the process of testing to find out at what

12243 place you should cut it off and run the Oklahoma oil into another tank.—A. We know the rate of flow through a pipe line. We figure that. Then we ask the receiving man to take samples, to take gravities of those samples. He takes them right along at frequent intervals. Then he will see of course that the gravity is uniform right through. Then by and by it will come to a place where the gravity changes slightly. Then when he sees a positive change in there, of course they switch off into the other tank.

Q. That is, they switch it off into another tank and run the lower gravity oil into that tank?—A. Yes, sir.

Q. Those tests are made from taking the oil from the pipe as it comes up?—A. From the pipe; yes, sir.

Q. That is the customary way of doing it?—A. That is the customary way of doing it.

Q. You have valves in the pipe?—A. Small pipes with valves in; yes.

Q. And then you have cut-offs so you can run the low-grade oil into another pipe or tank, have you?—A. We have branch lines and valves to switch oil from one tank to another.

Q. Where is this low-grade oil in Pennsylvania produced?—A. Some of it around not far from Oil City.

Q. Corning, Newcastle, and Somerset oil?—A. Some Corning oil; that is Ohio oil, you know. Somerset is in Kentucky.

Q. I mean the Pennsylvania field?—A. Well, it is not considered Pennsylvania field.

Q. Southeastern Ohio, isn't it?—A. Southeastern Ohio; yes.

12244 Q. That is commonly called the Appalachian or Pennsylvania field, isn't it?—A. As far as I know there is a different grade of oil.

Q. Corning, Newcastle, and Somerset oil is a different grade from the ordinary Pennsylvania?—A. Yes, sir.

Q. Aren't those practically the only Pennsylvania oils that are kept separate?—A. Oh, I don't know about the keeping of them separate.

Q. What?—A. I don't know anything at all about keeping them separate. They keep them separate, I know, but how many more I don't know.

Mr. CRAWFORD. Isn't there one at Cable, called Cable oil?—A. I have never heard of it.

Q. Now, suppose it was necessary to handle batches of, say, 50,000 barrels to 150,000 barrels of those oils, and you wanted to keep them separate from the Pennsylvania oils, couldn't you do it?—A. Why, we would have to pump them separately from the Pennsylvania oils.

Q. That is, through the same pipes, but you would pump them in batches, wouldn't you?—A. Pump them in batches.

Q. So that if you wanted to send 100,000 barrels of that oil to the Pratt works——

Mr. CRAWFORD. From where?

Q. ——from western Pennsylvania, following it with 100,000 barrels of high-grade Pennsylvania oil, you could do that, couldn't you?—A. Why, you could do it in a way, with the contamination that I speak of.

12245 Q. With the contamination over that certain distance between the two grades?—A. Yes, sir; with the contamination as I say.

Q. Did you ever use a scraper?—A. Yes, sir.

Q. What is that?—A. It is an implement or instrument for cleaning the lines. There are knives around it. Our pipes paraffine, clog up sometimes, and these scrapers are pushed through. The knives cut around on the inside of the pipe just so as to cut off the accumulation of paraffine.

Q. Have you used those to separate two grades of oil?—A. I have done it; yes, sir.

Q. That is, you put a scraper between the two grades of oil?—A. Yes, sir.

Q. And that scraper follows right along between the two grades of oil?—A. Yes, sir.

Q. In that case there is scarcely any mixing at all?—A. Oh, I never found any benefit, or much benefit, from a scraper.

Q. You never did?—A. No, sir.

Mr. CRAWFORD. Haven't you found that there was more mixing in cases?—A. I have found in cases there was more. Sometimes a scraper gets stuck, and makes a worse mix up.

Q. You don't use it?—A. No, sir; I have tried it, but never could see any benefit from it.

Q. Do you say that they have not pumped through the pipe lines in batches of from 50,000 to 150,000 barrels of Corning, Newcastle, and Somerset oils and kept them separate from the other grades of oil?

12246 Mr. CRAWFORD. Do you know?

A. I don't know anything about that.

Q. You don't know?—A. No, sir.

Q. If Mr. Payne said they had done that, you would believe that to be true, wouldn't you—C. N. Payne?

Mr. CRAWFORD. I object to that. It has not been proved he has said that.

Q. You know Mr. Payne, don't you?—A. Yes, sir.

Q. Who is he?—A. He used to be general manager.

Q. He was general manager of the pipe line?—A. Yes, sir. I am just telling you of my personal knowledge.

Q. I understand that, Mr. Page. Is he general manager now?—A. No, sir.

Q. When did he quit?—A. Some time ago, probably a couple of years ago.

Q. Well, he was general manager a year ago when he was examined here in court, or a year ago last September?—A. Well, he may be yet, as far as I know, but two men take up his work; they may be assistants.

Q. Who are they?—A. Mr. Miller and Mr. H. L. Scrafford.

Q. Where does Mr. Miller live?—A. Mr. Miller is in Oil City—Mr. W. V. Miller.

Q. And H. L. Scrafford?—A. Pittsburg, Pennsylvania.

Redirect examination by Mr. CRAWFORD:

Q. What is about the average length of the gathering lines connected with the pipe line companies that you are familiar with—the Standard Oil pipe lines?—A. It would be pretty

12247 difficult to give you a very close estimate, but taking the gathering line system all over, I would say that 18 or 20 miles was a conservative figure for the length.

Q. You mean to say that that would be a conservative figure for the average length of the different gathering lines?—A. Yes, sir.

(The witness was excused at this time, but asked to return to-morrow morning for further cross-examination.)

12248 THOMAS R. WEYMOUTH, called on behalf of the defendants, duly sworn, testified as follows:

Direct examination by Mr. CRAWFORD:

Q. You are an engineer, I believe, are you?—A. Yes, sir.

Q. Graduate of what?—A. Graduate of Massachusetts Institute of Technology.

Q. Are you employed at Oil City?—A. I am.

Q. Did you take part in the various tests and experiments to which Mr. Page has testified?—A. I did.

Q. You were present and heard Mr. Page testify in this case, did you not?—A. Yes, sir.

Q. Will you please take the volume of blue prints, defendants' Exhibits 227 to 250, inclusive. Now, referring to them or looking them over, state whether you were present at all the tests which are referred to and represented there. Just look through them all and see if you were present at all of them, or if not, at what ones you were not present.—A. I was present at all except tests 4, 5, and 6, figs. 9, 10, and 11.

Q. Have you gone over the data, as furnished by Mr. Page, of the tests shown in figs. 9, 10, and 11 and also reproduced in 12, 12A, and 13?—A. Yes, I have.

Q. So that you can state, assuming the data to be correct, whether they are correctly worked up and represented here?—A. I made these myself, so they are correct, I know, and also the others.

12249 Q. You made them yourself—you worked them up, did you not?—A. Yes, sir.

Q. And as to all the other tests, were you present yourself taking part in them?—A. I was.

Q. Are you able to say whether the observations were correctly made?—A. Yes; I know them to be.

Q. And were the data correctly worked up in these blue prints as testified to by Mr. Page?—A. Yes.

Q. And you agree with Mr. Page in all the conclusions which he has drawn from these various documents?—A. Yes; I do.

Q. You were present also, were you, at these tests shown in Exhibits 245 to 250 when Mr. Schoder was present? You were there also, were you?—A. Yes, sir; I was there at all those tests.

Q. And you have heard what Mr. Page testified as to them, have you?—A. Yes.

Q. And that is correct, is it?—A. That is correct.

Q. You know the observations made were accurately taken?—A. I know them to be accurately made; yes, sir.

Q. And correctly worked up and formulated in these diagrams?—A. Yes, sir.

Q. And are these diagrams the usual way of representing graphically such data?—A. Yes; they are the usual way in which engineers represent such data.

Q. You have heard Mr. Page testify in regard to these gravity tests that were made. At which of those tests were you present?—A. I was present at all of them.

Q. And was what he had to say correct in regard to Exhibit 241, fig. 14, about the method of taking the gravity tests?—
12250 A. Yes; as I remember, it was.

Q. And you believe that the tests were taken correctly, do you?—A. Yes; I know they were.

Q. And the results are correctly represented in these three figures, 15, 16, and 17?—A. Yes, sir.

Q. Now Mr. Page was not able to tell the rate of pipeage in those three particular tests. Have you any data from which you can tell what they were?—A. I have not on my person, but I have submitted a report giving that data. You mean the rate of pumping?

Q. I mean fig. 15; the rate of pumping.—A. My memory is it was about 530 or 540 barrels, but I am not sure.

Q. Will you look that up before to-morrow morning—— A. I will.

Q. —— so that you can give that accurate?—A. I will do so.

Q. And also the same as to the rate of pumping in the tests shown in figs. 16 and 17?—A. Yes, sir.

Cross-examination by Mr. KELLOGG:

Q. Are these the only tests you made?—A. On gravity change, you mean?

Q. Yes.—A. Yes, sir.

Q. These three tests?—A. Yes, sir.

Q. You did not make any others at the same time?—A. No.

Q. Just these three?—A. These three noted here; yes.

Q. How long have you been an engineer in the pipe line
12251 business?—A. In my present position?

Q. Yes.—A. Five years and a half.

Q. What branch of the pipe-line service are you connected with?—A. I am purely in engineering work.

Q. Purely in the engineering department?—A. Yes, sir.

Q. Have you been on the engineering department of the trunk line at any time?—A. No, sir; except perhaps being occasionally called in for advice.

Q. Your headquarters are at what place?—A. Oil City, Pennsylvania.

Q. Is that the general western Pennsylvania office of the Standard Oil pipe-line system?—A. Why, I don't know. It is one of their offices.

Q. What different pipe-line companies are you connected with?—A. I am employed by the National Transit Company.

Q. Do you have to do with the Southwestern pipe line?—A. I have had to do with some of their pumping stations at times.

Q. And the Crescent Pipe Line Company?—A. The Crescent?

Q. That is a pipe line entirely, isn't it?—A. I have never had anything to do with that.

Q. Have you ever worked for any other pipe-line companies except the Standard's?—A. No other pipe line companies; no, sir; except the company I am now engaged with—the National Transit.

Q. That is, the National Transit is the only pipe-line company you ever worked for?—A. Yes, sir.

12252 J. W. VANDERGRIFT, called on behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Mr. CRAWFORD:

Q. Where do you live?—A. Lancaster, Pennsylvania.

Q. And what is your business?—A. Superintendent of the Southern Pipe Line Company.

Q. That is a pipe-line company is it? You said pipe line, I think.—A. Yes, sir.

Q. Where does the pipe line of the Southern run?—A. From Morgantown, West Virginia, to Millway, Lancaster County, Pennsylvania.

Q. Isn't there a difference in name?—A. There is. For a matter of twelve miles from Morgantown it is the Eureka Pipe Line, and the balance of it is the Southern Pipe Line.

Q. That difference is simply due to the fact that it is in a different State, I believe?—A. Yes, sir; in West Virginia for the twelve miles, and then the balance is in Pennsylvania and nearly parallels, and runs very close to the Pennsylvania-West Virginia State line.

Q. The Eureka, you said, in West Virginia?—A. Yes, sir; the Eureka Pipe Line.

Q. I show you a map, defendants' Exhibit 251. This is a map of the State of Pennsylvania, is it not, with a small part of West Virginia?—A. Yes, sir.

Q. Does the red line laid down on the map show the course of the pipe line to which you are referring, from Morgantown,
12253 West Virginia, to Millway, in Pennsylvania?—A. Yes, sir; to the best of my knowledge.

Q. It is as nearly as can be gotten in such a map, isn't it?—A. Yes, sir; it covers those counties, and I presume is correctly located.

Q. About what is the total distance from Morgantown to Millway?—A. 210 miles—between 210 and 211.

Q. Can you state how that is made up, taking it section by section, in respect to the number of pipes and their diameter?—A. At the present time?

Q. Let me ask you first, this: Did you take part in some experiments that were made in the fall of 1907 over that pipe line with a view of ascertaining the amount of contamination?—A. Yes, sir.

Q. Those were, I believe, in September or October and November, were they not?—A. There were four of them; yes, sir.

Q. Now, without going into details at this moment, was the entire system that you have there—that is, the entire pipe-line system between those two points—used in making these tests?—A. No, sir.

Q. Then will you please describe the portion which was used in making the tests from Morgantown to Millway, giving the numbers of pipes and their diameter at different sections of the route?—A. Just those that were in use on this particular test?

Q. Yes.—A. From Morgantown to a point known as Laurel Hill, 16½ miles, there were five 6-inch lines used; from Laurel Hill to another point, known as Three Corner Stone, for a dis-
12254 tance of 13 miles, there were two 8-inch and one 6-inch in service. From Three Corner Stone to the next station, known as Watson, a distance of 4½ miles, there was one 8 and a 6 in use.

Q. You mean one 8 and one 6?—A. Yes, sir; 4½ miles approximately. From Watson station east for a distance of 7 miles there were five 6-inch lines in service. From that point, known as Keyser Ridge, east for a distance of 14 miles there was one 8 and two 6's, to a point known as Deal Farm; and from Deal Farm to another point known as Mount Savage, for a distance of 4.7 miles, there were two 8's and one 6 used. From Mount Savage to State Line station, a distance of 8 miles, there were three 6-inch lines in service, and from State Line station to a point known as Sidling Hill, for a distance of 26¼ miles, there were four 6-inch lines in service. From Sidling Hill to another point known as Cove Mountain, for a matter of 15½ miles, there were five 6-inch lines in service. From Cove Mountain down to Knepper station, for a distance of about 24½ miles, there were three 8-inch lines. From Knepper station to a point known as Jacob's farm, for 16 miles, there were four 6-inch lines in service, and from Jacob's farm for a distance of 23 miles, to a point known as Lonacker farm, there were two 6-inch lines. For a distance of 12 miles, from there to the west side of the Susquehanna River, there were three 8-inch lines in service. From the west side of the Susquehanna River to the east side, a distance of 1.7 miles, there were two 8-inch lines, and for a distance from the east side of the
12255 Susquehanna River to Millway station, a distance of 23½ miles, there were three 8-inch lines in service. That covers the entire distance.

Q. What was the total capacity of that part of the system which you used in these experiments?—A. My recollection is it was about 45,000; somewhere in that neighborhood at that time; 40,000 or something like that.

Q. Was that daily capacity?—A. 24 hours; yes, sir.

Q. What was the amount that the entire portion of the line which you used would contain?—A. I won't be dead sure of that, but I think it was about 260,000 barrels; something like that. I don't know whether I am right on that or not. I can ascertain definitely.

Q. You don't remember that exactly now?—A. I have had the figures, but I can't recall them exactly. I can tell them, though, by to-morrow morning if you want them.

Q. Will you look that up——A. Yes, sir.

Q. And be prepared to testify in regard to it?—A. Yes.

Q. What was the daily capacity of the balance of the line, of the system, which was not involved in these experiments?—A. About 17,000 or 18,000 barrels a day.

Q. Was there any permanent separation between that and the balance of the system?—A. Only temporary.

Q. It was being used on the day of these tests for what purpose?—A. To facilitate moving a larger percentage of oil without causing mixture.

Q. What kind of oil were you using through that smaller portion of the system at the time of these tests?—A. I could not
12256 answer that just now. I know it was higher gravity oil than what we are pumping at this time; along about 44.

Q. Pennsylvania grade?—A. Yes, sir.

Q. How many different kinds of oil do you distinguish that are carried there in practical operation through that pipe line?—A. We have six grades of oil that we handle there.

Q. Will you mention them?—A. I can, I think: Pennsylvania, Kansas, Illinois, Cable, Somerset—I guess that is six, isn't it?

Q. That is five.—A. And Corning.

Q. Where is Cable?—A. I could not tell you.

Q. Do you know what State it is in?—A. I don't know anything about where the oils come from. That is not my part of the work.

Q. There are six separate grades of oil?—A. Six grades of oil that we pump through there.

Q. That you keep distinct, as far as you can?—A. Yes, sir.

Q. How many tests were there which you show in regard to contamination?—A. I think there were four there that we made.

Q. I hand you a paper and ask you to look at it and refresh your memory by it, to describe the different tests. When was the first run?—A. September 13, 1907.

Q. Started from where?—A. Morgantown, West Virginia, and received at Millway, Lancaster County, Pennsylvania.

Q. Do you know what was the average gravity of the oil in that batch?—A. The average gravity was 44.3.

Q. 44.3 degrees Baumé?—A. Baumé; yes, sir.

Q. What was the size of that batch?—A. 155,605 barrels.

Q. What was that preceded by?—A. I don't know that I
12257 can answer that off this paper.

Q. Was it a western oil?—A. I think it was. We have a record of it.

Q. Do you remember what the gravity of the western oil was?—A. No, I don't on here, but I can give you that to-morrow. I had it on a memorandum which does not appear here.

Q. What general directions did you give in regard to the manner in which this test was to be carried out?—A. There was no very careful directions given in the first test. That was run along in the ordinary run of business, using the general instructions that are in force at all times.

Q. What means were taken for determining the variations in gravity?—A. There was a test of the gravity taken in the usual way hourly, and quite often between the hours at the various stations between Morgantown and Millway, and noted carefully; and when the oil was received at Millway a corresponding test was taken, and when the gravity reached a certain point it was turned into separate tanks, and that which fell below that was turned into other tanks, using every ordinary care in that particular batch.

Q. Was there any separator used in that?—A. No, sir; there were no separators used in that batch.

Q. You don't recollect what the oil was which preceded this?—A. No; I have that, but I haven't got it before me at the present time.

Q. Will you look that up by to-morrow morning?—A. Yes, sir.

Q. Have you got the data showing when the beginning of this batch reached the terminus?—A. I have; yes, sir; but not

12258 with me at present.

Q. Not here?—A. But I have it in the city.

Q. Do you recollect generally whether the gravity of the oil which preceded this was lower than that or not?—A. I am very sure of that.

Q. You can give us that to-morrow?—A. Yes.

Q. What was the general result at the end of the run?—A. That we received 15,748 barrels of oil of a lower gravity than what we placed in the line.

Q. That is, that would represent 15,748 barrels of——A. Of mixture.

Q. Of mixture, would it?—A. Yes, sir.

Q. Showing some degree of mixture between the oil of gravity 44.3 and the oil which went in front of it?—A. Yes, sir.

Q. When did you try the second test?—A. On September 28, 1907.

Q. What was the amount of oil and the kind of oil that was sent through in that case?—A. There were 79,698 barrels of an average gravity of 44.3 Baumé.

Q. Do you know what the oil that preceded it was?—A. I can't tell you offhand; no, sir. I have it.

Q. Was it lower or higher in gravity?—A. In my recollection it was lower in gravity.

Q. Find that out by to-morrow, will you?—A. Yes, sir.

Q. And what was the result of that shipment?—A. In that shipment there were 17,044 barrels received below 42.6——

Q. That is——A. And up.

Q. That is, 17,000 barrels, which indicated a greater or less degree of mixture?—A. Yes, sir; that is correct.

12259 Q. What is the fact as to whether a separator was used in that?—A. There was a separator used in that particular test, and every care was taken that possibly could be taken. There were scrapers started at all points where the lines intersect each other, and starting from the station. The details of that I have.

Q. So that, on a shipment, according to the figures which you have given, of 79,698 barrels of high gravity oil, preceded by lower gr[illegible]

oil, you received 17,044 barrels of mixed oil, and how much pure oil of the high gravity?—A. 62,654.

Q. Do you remember anything about the action of the separators in that particular test?—A. Yes, sir. In that particular test there was one of the scrapers stuck, which caused considerable inconvenience, contributing somewhat to the mixture.

Q. How did it contribute to the mixture?—A. By stopping the flow of oil down through that particular line, not letting it pass freely.

Q. That is, you mean that particular pipe?—A. That particular pipe; yes, sir.

Q. Which would make the rate of flow in that particular pipe slower than in others?—A. For the time being, at any rate, it would not let the high-grade oil move on rapidly. It formed an obstruction.

Q. That made it slower in one pipe than in the other parallel pipes?—A. Yes; tend to force it somewhat down the other pipe.

Q. Now, tell us about the third test.—A. The third test was started October 20, 1907. There were 140,222 barrels of a gravity of 43.4 Baumé; received at Millway 123,350, and there
12260 were 16,872 barrels of that that was mixed. There were no separators started in this batch. Every care was used in that particular one, too, but there was no separator started.

Q. What about the fourth test?—A. The fourth batch was started November 6, 1907. 131,024 barrels of an average gravity of 44. Baumé; received at Millway 113,871, and of the above amount there were 17,153 barrels of mixture. There were separators used in this batch, as in the one of September 28, and every care was exercised that could be to guard against mixture.

Q. It would appear from these figures, if they are correct, that there was rather more mixture when they used the separators than when they did not?—A. Yes, sir; that is definitely proven there.

Q. What has been your experience as a practical pipe line man in regard to the value of separators?—A. Why, they are all right if they move along successfully, but no man can tell whether they are going to stop or stick or anything like that. You have to take your chances.

Q. In your practice do you regard them as of any certain value at all?—A. In some cases, but not in all. If they run successfully, they are all right, and if not they are a detriment.

Q. You can't rely upon them?—A. You can't rely on them with any degree of certainty.

Q. Were these tests conducted with the usual care that you observe in your business runs there?—A. I don't know as I caught that question.

12261 Q. Were these tests, these shipments ol oil through the line concerning which you have testified—were they managed with the same degree of care that you would exercise in the practical conduct of business?—A. More so, and additional care was used to guard against any possible error.

Q. Did you give instructions to that effect?—A. I did; yes, sir; and made sure that the men all received the instructions and understood them.

Q. Were the gravities taken at the initial point before the starting of each batch?—A. Yes, sir.

Q. And frequently more than once?—A. Oh, in some instances every five or ten minutes.

Q. As the oil kept going in?—A. Going into the pumps; yes, sir.

Q. You kept taking the gravity at the starting point, did you?—A. Yes, sir.

Q. And then you took the gravities at the stations, did you?—A. In addition to that, yes, sir, at the intermediate points.

Q. And then finally you took the gravities at the last end of the experiment?—A. At the terminal; yes, sir.

Q. And then these figures have been worked up from the data—were the data kept?—A. Yes, sir; all the figures and dates and orders given were kept.

Q. And these are the results from those?—A. Yes, sir.

(An adjournment was then taken until Tuesday, November 17, 1908, at 10.30 o'clock a. m.)

12262 ROOM 515, CUSTOM HOUSE, NEW YORK CITY,
Tuesday, November 17, 1908—10.30 a. m.

The hearing was resumed before the special examiner, Hon. Franklin Ferriss, at the above time and place.

Present: On behalf of the petitioner, Mr. Frank B. Kellogg, Mr. Charles B. Morrison, Mr. J. Harwood Graves. On behalf of the defendants, Mr. John S. Miller, Mr. Chauncey W. Martyn, Mr. F. L. Crawford, Mr. Walter F. Taylor, Mr. W. Cleveland Runyon.

J. W. VANDERGRIFT, recalled, and his direct examination resumed, as follows:

By Mr. CRAWFORD:

Q. Mr. Vandergrift, have you looked up the exact distances of the separate portions of the pipe line from Morgantown to Millway since yesterday's session?—A. No; I have got them between Laurel Hill—a portion of the line.

Q. You have looked up a portion of it, have you?—A. A portion of it; yes.

Q. I wish you would give me the exact distance from Laurel Hill station to Three Corner Stone station.—A. 13.31 miles.

Q. I think yesterday you said 13 miles. That was approximate?—A. I just used the round figures.

Q. From Three Corner Stone to the next station, which is Watson, I believe——A. Yes.

Q. What is the exact distance?—A. 4.58 miles. Yesterday
12263 I said 4½.

Q. Did you get it from Watson to Keyser Ridge?—A. No, sir.

Q. You did not note that. Well, then, from Keyser Ridge to Deal Farm, what is the distance?—A. 14.12 miles.

Q. And from Deal Farm station to Mount Savage?—A. 4.7 miles.

Q. Now, will you take up these various tests that you were testifying about yesterday and tell me a little more in detail about them? Take the test which is marked No. 1 on the sheet that you hold there, the test which was made on the 13th of September, 1907. What was the oil which preceded the high-gravity oil?—A. Western oil.

Q. Of about what gravity?—A. About 32 to 33.

Q. And what was the oil which followed the high-gravity batch?—A. Western oil of about the same gravity.

Q. When did the men at Millway, at the end of the line, turn the stream into the tank or tanks assigned to the high-gravity oil—at what point of gravity, I mean?—A. When it got up or down to 42.6, as the case might be.

Q. That is to say, the average gravity of the batch being 44.3——A. 44.3 Baumé; yes, sir.

Q. When in the course of their tests of gravity the gravity had risen from 32 or 33 until it showed gravity 42.6, they turned that into the——A. Higher-gravity oil; yes, sir.

Q. Into the higher gravity oil tanks?—A. Yes, sir.

Q. And then they allowed it to continue running into those tanks until the gravity fell off to what point?—A. 42.6.

Q. Then, in this amount of 139,857 barrels, then, is included all of that batch which showed 42.6 or better, is it?—A. Yes.

12264 Q. And under those conditions all that came out at the end of the line as of 42.6 or better was 139,857 barrels?—A. Yes, sir.

Q. Showing a shortage, according to these figures, of 15,748 barrels——A. Yes, sir.

Q. ——which was of lower gravity, and therefore, as I understand from you, showed itself to be a mixture?—A. Yes, sir.

Q. Now, take the third test, of October 20. What was the point in respect to gravity at which the observers turned the oil into the higher gravity tanks?—A. 42, and up.

Q. The average gravity of the batch being 43.4?—A. Yes, sir.

Q. They took that as the standard; and in like manner at the other end of the batch of high-gravity oil, at what point did they cut off the stream?—A. The same.

Q. 42?—A. 42; yes, sir.

Q. What oil was it which preceded the high-gravity oil in that instance?—A. Western oil.

Q. And followed by the same?—A. Yes, sir.

Q. And this western oil was of a gravity of about what?—A. Of about 32 to 33.

Q. So that in that instance, having started with a batch of 140,222 barrels of 43.4 gravity, you received at the end of the line 123,350 barrels which gauged from 42 degrees up?—A. Yes, sir.

Q. And that showed a loss or a mixture of 16,872 barrels below 42 gravity?—A. Yes, sir.

Q. Now, take the fourth test that is mentioned there. Was the same fact true as to the oil which preceded and followed
12265 the high-gravity oil?—A. Yes, sir; western oil.

Q. That is, it was western oil in each instance, was it?—A. Yes, sir.

Q. Of about——A. Of about 32.

Q. ——32-33?—A. Yes.

Q. And I infer from the figures given in the table here that the oil was turned into the high-gravity tanks when it showed a gravity of 42.5 degrees?—A. Yes, sir.

Q. And in like manner was turned off when it fell below that?—A. When it fell below that degree.

Q. Then it would appear from this table that having started 131,024 barrels of an average gravity of 44.4, you received only 113,871 barrels which was 42.5 or better?—A. Yes, sir.

Q. And that showed a mixture below 42.5 of 17,153 barrels which was started originally as of the average gravity of 44.4?—A. Yes.

Q. Now, just look at the second test, that made September 28, 1907. There the oil was cut off at 42.6. Let me ask you first, was the high-gravity oil preceded and followed by the same kind of oil?—A. By western oil; yes, sir.

Q. Of about the same gravity, around 33?—A. The same gravity, around 32 or 33.

Q. And you made the cut at a point of 42.6, did you?—A. 42.6; yes, sir.

Q. That is to say, you allowed as being of oil of the high gravity everything from 42.6 up?—A. Yes, sir.

Q. And that showed a loss or mixture of 17,044 barrels?—A. Yes, sir.

12266 Q. I want to ask you a little more in detail about that test, selecting that just as one. Did you make detailed reports as to these different tests?—A. I gathered them; yes, sir; all the details.

Q. I hand you a paper and ask you if that is a report which you prepared on this test of September 28, 1907?—A. Yes, sir.

Q. Now, refreshing your memory by that, state, to begin with, what the extremes of gravity were in the oil composing this high-gravity batch which was pumped into the line in that test.—A. The figures here show the high gravities and low gravities taken at different tanks.

Q. What is the lowest—44.2, is it not?—A. 44.2.

Q. And they ran as high as 44.6, did they not, under tank 15—the right-hand column under tank 15?—A. Yes. Then there is one there as low as 44.

Q. There is one 44?—A. Yes, sir.

Q. And two or three of 42?—A. Yes, sir.

Q. But most of them run 44.5 and up?—A. And up.

Q. Now, as I understand, in pumping oil into the lines you take the gravity at each 2 feet of the tank?—A. In this case; yes, sir.

Q. You did that in that case anyway. Now, in this test scrapers were used, were they not?—A. Yes, sir. No; that is in September 28?

Q. Yes.—A. No; there were no scrapers used in that.

Q. Aren't you mistaken? Will you look at the second page of your report?—A. On September 28?

Q. Yes.—A. Oh, yes; I beg your pardon. Yes, there were

12267 scrapers used in that.

Q. Now, where you have different sized pipes, of course you have to use different sized scrapers, don't you?—A. Yes, sir.

Q. That is, scrapers to accommodate the different pipes?—A. Yes, sir.

Q. 8-inch pipes and 6-inch pipes?—A. Yes, sir.

Q. And also where you changed from one caliber of pipe to another caliber, I suppose you changed the scrapers?—A. Yes, sir.

Q. And did so in that test?—A. We always have to.

Q. That is, you take out one set of scrapers and put in another?—A. Yes, sir.

Q. At the——A. At the junction.

Q. At the junction?—A. The junction of the two sizes of the line.

Q. Was that done in that test?—A. Yes, sir.

Q. There are two stations on this line, named Savage Mountain and State Line, are there not, or two points?—A. There are two points. One, State Line, is a station. Savage Mountain is a point where different sized lines joint together, or a junction.

Q. It is a point where a difference arises in the calibre or number of the pipe?—A. Yes, sir.

Q. Or both. Now, what is the distance from Savage Mountain to State Line?—A. In round figures, 8 miles.

Q. How many pipes are there in there?—A. There were three 8-inch lines used in this test.

Q. Three 8-inch lines and a separate scraper in each one,

12268 I suppose?—A. Yes, sir. I want to change that, if you please, to 6-inch. I think I said 8-inch. I want to change that to 6.

Q. Three 6-inch?—A. Three 6-inch.

Q. When the oil arrived at the State Line station what was the fact in regard to the gravity in the different pipes? You said there were three 6's?—A. Yes, sir.

Q. Now, they were numbered 2, 3, and 4, were they not?—A. They were numbered 2, 3, and 4.

Q. Then, what was the fact in regard to the difference in the time at which the oil approximating the standard gravity, the 44 gravity, reached the State Line station in those pipes?—A. Well, at 3.45 a. m. No. 2 line showed 36; No. 3, 36 gravity.

Q. It is not necessary to go into all that detail. I mean to say, at the time when you got the oil approaching 44——A. Then take 5.30. That is right below there.

Q. What does it show at 5.30; that was 5.30 a. m.?—A. A. m.

Q. On what day?—A. September 30, 1907.

Q. What was the reading of gravity on the three lines at 5.30 a. m. on that day?—A. No. 2, 36.6; No. 3, 43.6; No. 4, 42.2.

Q. In other words, the oil in the line No. 2 was away behind the other two lines in respect to the gravity, was it?—A. Yes, sir.

Q. And did that indicate that for some reason a part of pipe No. 2 was still filled with oil of low gravity?—A. Yes, sir.

12269 Q. And that would show, would it not, that the oil in pipe No. 2 was traveling much more slowly than in the other pipes?—A. Was not coming ahead; yes, sir.

Q. Notwithstanding the fact that they had the same caliber?—A. The same caliber.

Q. Now, when they got into State Line, how much behind Nos. 3 and 4 was the oil in No. 2 pipe?—A. I will have to review that a second. There was a difference of six hours there between lines 3 and 4.

Q. A difference of six hours. That is to say, what was the reading of gravity on which the comparison was made?—A. At that time?

Q. Yes; at that point. That is, when you are speaking of six hours, one being six hours behind the other, what was the gravity reading on which the comparison was made?—A. 43.5.

Q. That is to say, the oil was six hours later in coming up to the gravity of 43.5 in pipe No. 2 than in pipes 3 and 4?—A. Then the oil in 3 and 4 was 44?

Mr. CRAWFORD. Just read the question.

(The reporter read the question as follows: "Q. That is to say, the oil was six hours later in coming up to the gravity of 43.5 in pipe No. 2 than in pipes 3 and 4?")

A. Well, in No. 2 line it gradually increased up to——

Q. No; listen to the question and answer it.—A. All right.

Q. You said that the oil in No. 2 was six hours behind the oil in the other two. Now, read the question again.

(The reporter read the question as follows: "Q. That is to say, the oil was six hours later in coming up to the gravity of 43.5 in pipe No. 2 than in pipes 3 and 4?")

12270 Q. Is that what you mean?—A. Yes, sir; it was six hours.

Q. At what hour did the oil in pipes 3 and 4 show a gravity of 43.5 or better, if you can tell?—A. At 5.30 a. m. 3 and 4 showed 43.6 and 42.6.

Q. Yes; and at 6.30 what did they show?—A. At 6.30 a. m. No. 3 showed 44 and No. 4 showed 44.

Q. At what hour, if you can tell, did the oil in No. 2 line reach 44 or that neighborhood?—A. At 11.15 a. m. it reached 43.4.

Q. Then, from 6.30 to 11.15 a. m. on that day the oil in pipes 3 and 4 was showing a gravity of 44, while the oil in pipe No. 2 was running at various degrees less than that?—A. Yes, sir.

Q. From about 37, was it?—A. Around 37; yes, sir—37.7.

Q. Up to 43.4?—A. Yes, sir.

Q. Now, all of the oil from all those three lines came together at State Line, didn't it?—A. Yes, sir.

Q. Was there anything which occurred in that run with one of the separators?—A. Yes, sir; there was one delayed at Mount Savage. It did not start out in the No. 2 line.

Q. What had happened to it?—A. It just simply didn't go.

Q. It got stuck somewhere?—A. Simply for some cause unknown it remained there.

Q. And when this was observed, were means taken to get it started?—A. Yes, sir.

Q. That is a thing which would occur in practice, would it not?—A. Yes, sir; a daily occurrence.

12271 Q. Where scrapers are used?—A. Yes, sir.

Q. Now, you have a station at Knepper, haven't you?—A. Yes, sir; a pumping station.

Q. And several pipes running into that station?—A. Yes.

Mr. KELLOGG. What station are you talking about now?

Mr. CRAWFORD. Knepper.

Q. In the course of your experiment were differences noted in the gravity of the oils arriving at the same time at Knepper station on October 1?—A. Yes, sir; on October 1, 4.30 p. m., oil began to change at Knepper; No. 2 line, 33.1; No. 3, 37 gravity; No. 4, 38. At 8 p. m., No. 2 line gravity was 33.4, No. 3 was 43.9, No. 4 was 44.3.

Q. At 9 p. m. what were the figures?—A. At 9 p. m. the oil was 44 gravity in lines Nos. 3 and 4, and in No. 2 line ranging from 33 to 33.5.

Q. Did that difference continue for several hours?—A. Yes, sir.

Q. For how many hours that night, or between what hours—9 to 4, was it?—A. Wait a second.

Q. 9 p. m. on October 1 until what time did that difference maintain?—A. From October 1, 4 a. m., to October 2——

Q. No, I have asked you——A. From 9 p. m., October 1, to 4 a. m., October 2; that is the condition.

Q. That is seven hours, isn't it?—A. About that; yes, sir.

Q. It is exactly that, isn't it?—A. Yes, sir.

Q. For seven hours in that pipe, while the gravity of the oil flowing through Nos. 3 and 4 pipes was 42 degrees, that flowing
12272 through No. 2 pipe was 33 to 33.5 degrees gravity?—A. Yes, sir.

Q. Now, at Knepper, all this oil from all these three pipes came together, didn't it?—A. Yes, sir.

Q. Mixed?—A. Yes, sir.

Q. Let me ask you the length of this test. I have forgotten to go into that.—A. It was started on the 28th of September, speaking now about test No. 2.

Q. The 28th of September, at what hour?—A. At 3.20 p. m. Now, just a minute until I see if that is right—at 3.30 p. m.

Q. At what hour was the oil having 42.6 gravity turned in to the high-gravity tank? In other words, when did the head of the column

of high-gravity oil appear there at Millway?—A. On October 3 at 11.50 p. m., the stream was turned in to the tanks. Now, wait a minute, hold on——

Q. Then it took a little less than five days, did it, for the head of this batch of oil to pass through the line?—A. Yes, sir.

Q. And it took, in some of these instances, more than that, didn't it?—A. Yes, sir.

Q. Isn't it a fact that the first test took about eight days to go through?—A. Some seven days, something like that. There were always more or less delays.

Q. Then the one that was started November 6, that took about five or six days, didn't it?—A. In that neighborhood; yes. That is the ordinary.

Q. Is that the ordinary time for the head of a batch of oil to pass through that distance?—A. Yes, sir.

12273 Q. Now, referring to that Knepper instance, you told me that from 9 o'clock in the evening until 4 o'clock the next morning, or 7 hours, the high gravity in pipes 3 and 4 was running 44 degrees, and the gravity in No. 2 pipe ranged only from 33 to 33.5, which was about the gravity of the western oil?—A. Yes, sir.

Q. Have you a record of how the gravity changed in the hours following that? Take, say, October 2, from 4 to 7 o'clock in the morning; what was the change in gravity in No. 2 pipe?—A. On October 2, and 4 a. m. to 7 a. m., the gravity increased from 33.5 to 43.

Q. And from 7 to 8.30 what was it?—A. From 7 a. m. to 8.30 it increased from 40.3 to 42.6.

Q. So that from 9 o'clock in the evening to 8.30 the next morning, or 11½ hours, the oil pouring out of pipe No. 2 was of a less gravity than that coming out of 3 and 4, and most of the time of a very much less gravity?—A. Yes, sir.

Q. In that instance were the pipes of the same size?—A. Yes, sir.

Q. How do you account, if you can account, for that difference in the speed of those columns of oil?—A. I can not account for it.

Q. Is that a common occurrence in your experience?—A. Yes, sir.

Q. And even in pipes of the same caliber the oil will proceed much more slowly in one than in others?—A. Yes, sir; at times; especially where there are scrapers used.

Q. Even where the scraper is not used does the same thing sometimes occur?—A. I think so.

12274 Q. Is there such a thing known as paraffining in pipes?—A. Yes, sir.

Q. What do you mean by paraffining?—A. It is a refuse that clings to the pipe, and tends to clog it up and retard the flow of the oil.

Q. Paraffine is one of the ingredients of crude oil, isn't it?—A. Yes, sir.

Q. And it tends to deposit on the inside of the pipes, does it not?—A. Yes, sir.

Q. Has your experience shown that that deposit is greater sometimes in one pipe than in another?—A. Yes, sir.

Q. And until the pipe is cleaned out, that would tend to decrease the caliber of one pipe as compared with others of the same size, would it not?—A. Yes, sir.

Q. That is, it would decrease the interior diameter?—A. It would decrease the interior diameter.

Q. But, at any rate, it is a common occurrence in parallel pipes of the same size for the oil to flow at different rates of speed?—A. It depends on the condition they are in as to paraffining, cleanliness.

Q. Does the paraffine deposit on the pipes smoothly, or does it deposit in more or less lumpy fashion?—A. Well, I can't answer that, not seeing the interior of the pipe.

Q. No; but I did not know but you had examined sections of it?—A. I can not say as to the uniformity of it. It gathers there and we have to put in scrapers.

Q. It deposits thicker in some pipes than in others, for no apparent reason?—A. Weather conditions and change of climate.

12275 Q. In all these cases to which you referred, where oil was flowing at different rates of speed through different pipes, as shown by the great difference in the gravity at a common point of observation, did the oil that emerged from the three pipes all go into one common receptacle?—A. Yes, sir.

Q. Either a tank or else into a junction?—A. A junction with other lines.

Q. But there was free intercommunication between the three streams?—A. Yes, sir.

Q. So that they would necessarily mix?—A. The observations were taken on each separate line.

Q. In regard to the Knepper instance, was there anything observed in regard to the action of the scraper in line No. 2, October 2?

[The witness looks through memoranda.]

Q. Look under Knepper; under date of October 2; you will find in your report some reference to a scraper.—A. Yes; I have it all right. I was just wanting to see as to the number. I have got it as scraper No. 64. It started at Cove Mountain.

Q. The number of the scraper is not very material, I suppose; the point is, it was a scraper in No. 2 line?—A. Yes, sir.

Q. And where had it been put in?—A. At a point known as Cove Mountain.

Q. How far west of Knepper is Cove Mountain?—A. About 24¼ miles.

Q. At the same time similar scrapers were put in lines 3 and 4, were they?—A. Yes, sir.

12276 Q. What was the fact as to the time of arrival of the scraper that was put in No. 2 pipe as compared with the others?—A. It was some forty hours late.

Q. You mean it got to Knepper at the end of terminus of the 24-mile stretch, about 40 hours later than the other scrapers?—A. Yes, sir.

Q. Showing that it had been stuck somewhere?—A. Yes, sir.

Q. At Millway was there a similar occurrence in regard to the delay in one of the scrapers?—A. Yes, sir.

Q. What pipe was that in? First tell me how many pipes there were in the stretch of pipe line immediately west of Millway, that

was used in this test?—A. Three immediately west for a distance of 23¼ miles. That brings it to the Susquehanna River.

Q. They were of what size?—A. Three 8-inch pipes.

Q. There were three lines that were numbered in your report 2, 3, and 4, were there not?—A. I will tell you just in a second.

Q. Well, never mind how they were numbered; let us know what the fact was in regard to one of the scrapers being delayed.—A. It remained in the line, did not come out until long after the test was completed. The oil had passed there.

Q. At what time was it inserted, or what time was it started?—A. At 10.30 a. m.

Q. On what date?—A. On October 3.

Q. Aren't you mistaken about that? Wasn't that in No. 2 line?—A. No. 2 line, yes. Now wait a minute.

Q. Well, never mind about that, Mr. Vandergrift. The
12277 fact is that one of the scrapers did not come out until a long while after the other in that test.—A. All right, sir.

Q. In addition to these tests that you have testified in regard to, was there another test made under similar conditions?—A. Not exactly, no.

Q. Well, there was another test made, was there not?—A. We have made other tests; yes, sir.

Q. I mean to say formal tests.—A. Yes, formal tests.

Q. There was one other formal test made, was there not?—A. Yes, sir.

Q. I hand you a paper, and ask you, after refreshing your memory, to give us the figures in regard to that test. What was the date when it was started?—A. On October 10, 1907.

Q. And what was the amount of the batch when it was started?—A. 85,086 barrels.

Q. Of what gravity?—A. Of an average gravity of 44.3.

Q. At what point of gravity was the oil turned into the high gravity tank at Millway?—A. All above 42.5.

Q. In other words, credit was given, so to speak, to the high gravity batch for everything from 42.5 up?—A. Yes, sir.

Q. And in the same way the stream was cut off at the other end, was it, when it diminished from 42.5?—A. Yes.

Q. Now, the amount that was started from Morgantown was how much?—A. 85,086 barrels.

Q. And how much was received at Millway at 42.5 or better?—A. 76,974 barrels.

Q. These are barrels, of course?—A. Barrels, yes, sir.

12278 Q. Showing a difference in mixture of how much?—A. 8,112 barrels.

Q. I should have asked you what was the fact in regard to the oil which went before and after this batch. Was it the same as in the other cases?—A. Yes, sir.

Q. That is, it was western oil?—A. Western oil.

Q. Around 33 degrees?—A. Yes; it ran around that. I think there was one instance where it ran 34.

Q. Do you remember what it was in this instance?—A. Not definitely at the present time.

Q. It was not over 34 anyway?—A. I would not be sure of that. I am not prepared to answer that question just at the present time.

Q. It was western oil. What is your observation in regard to——A. I don't know. I don't think I can answer that just at the present time; I haven't any records here with me on that test.

Q. Will you look it up at recess and see if you can find out what the gravity of the oil was that preceded and followed the other?—A. Yes, sir; I have got it.

Q. Were scrapers used in this test?—A. My recollection is there were; yes.

Q. Will you look that up and see certainly whether scrapers were used or not?—A. Yes, sir.

Q. In addition to these tests, which were made with considerable care, as you testified, did you also observe similar results in other batches of oil that were run through the line in the ordinary course of business?—A. Yes, sir.

12279 Q. In a considerable number of instances?—A. Yes, sir.

Q. And did you find similar results in respect to the amount of mixture that followed?—A. Yes, sir.

Q. What amounts or between what ranges did you find the mixed oil to be?—A. Usually from 15 to 25 thousand.

Q. Other than the one case which you have just been testifying to, of the date October 10, 1907, do you recall any other instance where the amount of mixture was less than 15,000 barrels?—A. No; not outside of that one; I do not recall any. They were all more.

(A recess until 2 o'clock was announced.)

WITNESS. I wish to make a correction. Last evening I believe I stated the pumping capacity of the line was 45,000. I wish to make that 35,000.

Mr. CRAWFORD. You mean to say the daily capacity?

WITNESS. That was the daily capacity at the time they were pumping this oil through.

Mr. CRAWFORD. That is, daily capacity of so much of the pipe line as was used in those experiments?

WITNESS. Yes, sir. I want to change that.

(A recess was here taken until 2 o'clock p. m.)

12280 Q. Did you look up the facts in regard to the test that you last testified about, the one of October 10, 1907?—A. Yes, sir.

Q. And what did you find to be the fact in regard to the oil which preceded the high-gravity batch?—A. Preceded by Somerset, a gravity of 33 to 36.4, followed by western oil of the gravity of about 33. Scrapers were used.

Q. Did you wish to make a correction in regard to the capacity of the line that was used in making these tests?—A. Yes, sir; with regard to the holding capacity.

Q. What was it?—A. I wish to make it 175,000; I think I gave it as 240,000.

Q. What you mean by that is, the entire capacity of that part of the line that was used in these tests, once full, was 175,000 barrels?—A. Yes, sir.

Cross-examination by Mr. KELLOGG:

Q. What is your position with the Standard Oil, Mr. Vandergrift?—A. Superintendent.

Q. Of what line—A. The Southern Pipe Line from Morgantown, West Virginia, to Millway.

Q. What other line?—A. The Crescent Pipe Line west of Pittsburg to Marcus Hook.

Q. What other?—A. The National Transit Line from Colegrove, McKean County, to Philadelphia.

Q. Any other line?—A. The Southern Pipe Line from Millway to Philadelphia, and also the N. T. line.

Q. And what?—A. And also the National Transit Line
12281 from Millway to Philadelphia.

Q. How long have you been superintendent of those lines?—A. Four years.

Q. Since 1904?—A. Yes, sir.

Q. Prior to 1906, were you also superintendent of the lines in Jersey?—A. Yes, sir; I was superintendent of that line.

Q. That is, prior to the time the lines in New Jersey were transferred to the Standard Oil of New Jersey, you were superintendent of those lines also?—A. Yes, sir; that is, from the Delaware River to Bayonne.

Q. From Delaware River to Bayonne; that is, from Centerbridge, isn't it, to Bayonne?—A. Yes, sir.

Q. And were you also superintendent of the New York Transit's Line?—A. No sir.

Q. You did not have anything to do with that?—A. No, sir.

Q. So that prior to 1906 you were superintendent of practically all the lines in Pennsylvania, weren't you?—A. Those already stated, from Morgantown to Philadelphia, Colegrove to Philadelphia, Centerbridge.

Q. Prior to that time what position did you occupy?—A. I was division engineer.

Q. And as division engineer what divisions did you cover?—A. I covered those divisions.

Q. The same divisions. How long were you division engineer?—A. Some fifteen years.

Q. So that your experience with pipe lines extends over about twenty years?—A. Thirty.

Q. About thirty years. Prior to the time you were division
12282 engineer, what position did you occupy?—A. I held a station position. I was in charge of the station.

Q. Where?—A. At Millway, Lancaster County.

Q. In delivering oils to Bayonne, New Jersey, through any of these pipe lines, you do not deliver one grade of oil all the time, do you?—A. No, sir. I have nothing to do with the delivery of oil to Bayonne, New Jersey.

Q. When you were superintendent you did have?—A. Yes, sir.

Q. I am speaking of the time that you were familiar with it. The business is done now substantially the same as it was then, isn't it?—A. I only deliver the oil to Centerbridge.

Q. There are no refineries at Centerbridge?—A. No, sir.

Q. It is a mere station, isn't it?—A. It is a pumping station; yes.

Q. Just the same as many of your other pumping stations?—A. Pretty much the same.

Q. And the oil is pumped straight through that station to Bayonne, the same as it was prior to 1906, isn't it?—A. Before it went through on a direct line, but there is a separate station there and it is received in tanks and checked up.

Q. The only difference is that you now have a pumping station on the Delaware River, and formerly you had one near the Delaware River?—A. We had none short of Millway, Lancaster County.

Q. Well, Millway. The station that was built in 1906 at
12283 Centerbridge is no different in its mechanism and in the way you handle the oil than any other intermediate station along the line?—A. Generally speaking, it is about the same.

Q. You pumped the oil through that station into the tank and out the same as you do at Millway?—A. Except that we have men there at Centerbridge who receive the oil—delivery men, who check it up under my supervision.

Q. Well, don't you at Millway?—A. Yes; but I do not make any transfer of it at Millway.

Q. It is not necessary to check the oil up at Centerbridge, is it?—A. Why, certainly.

Q. Why?—A. It goes to another company there.

Q. Well, suppose that company was the same company, with the same machinery and appliances, it would not be necessary, would it?—A. Not if it was the same company. Probably there would be no occasion for it.

Q. That is what I want to get at. The company that now owns the pipe line, or has owned it since 1906, in New Jersey, is the Standard of New Jersey, isn't it?—A. I rather think so. I am not certain of that.

Q. Well, it is another company?—A. Yes.

Q. The company that owns the pipe line between Centerbridge and Millway is the National Transit Company?—A. Yes, sir.

Q. Now, suppose you had the same pumping station you now have——A. Where at?

Q. At Centerbridge, on the Delaware River, but that the line in Jersey delivered to the National Transit, as it did prior to
12284 1906, would it be necessary to check up the oil?—A. Not

necessarily, no; except to guard against any mistakes that might occur during a line break or something of that sort.

Q. It would not be necessary to check it any more than at any other intermediate pumping station?—A. No, sir.

Q. The only reason, then, that you have check men to check up the oil at Centerbridge is that that line this side of the Delaware River in Jersey belongs to another company controlled by the Standard, isn't it?

Mr. CRAWFORD. If he knows.

A. I don't know to whom it belongs.

Q. Well, it belongs to another company. It appears in this case that it belongs to the Standard of New Jersey. Now, during the time you were superintendent of the lines, both in Jersey and in Pennsylvania, tell us how you delivered different grades of oil, and kept them separate, to the Bayonne refineries.

Mr. CRAWFORD. If he did.

A. We always used a means of separating the oils, in batches, etc.

Q. Well, let us see how you did it. How many kinds of Pennsylvania crude oil are there—that is, that are graded for practical commercial purposes?—A. That I don't know.

Q. Don't you know that there are two?—A. I could not say positively.

Q. What is your opinion about it?—A. All I know is the Pennsylvania grade oil. I don't know what those grades consist of.

Q. Well, you know there are two grades—the heavy oil
12285 and the light oil—that are kept separate, don't you?—A. To some extent, yes.

Q. In the operation of pipe lines during the years you were superintendent, clear down to Bayonne, you transported oil from western Pennsylvania to Bayonne refinery and kept them separate, didn't you?—A. We separated them as far as possible; yes, sir.

Q. Now, tell us how you did that.—A. In the usual way, one batch following another.

Q. That is, you would transport, we will say, a certain number of barrels of the high-grade Pennsylvania oil, following it with a certain number of barrels of low-grade Pennsylvania oil; is that correct?—A. Yes, sir; if we had that kind of oil in transit.

Q. Is that the way you did it?—A. That is about the way.

Q. Now, in transporting that did you use separate pipes of the same line, or did you transport it one following the other?—A. One following the other.

Q. That was done through all of the pipe lines?—A. Yes, sir. You are speaking now of between Millway and Bayonne?

Q. I am speaking of the whole length.—A. Yes.

Q. From western Pennsylvania to Bayonne?—A. Yes, sir.

Q. That is correct, isn't it?—A. Yes, sir.

Q. Now, how many grades of Pennsylvania oil did you keep separate?—A. I could not say. I do not know whether we kept any of them separate.

12286 Q. You delivered them separately, didn't you?—A. Yes; we pumped them separate.

Q. And delivered them at the refinery separately?—A. Yes.

Q. In other words, if you put in a batch of low-grade Pennsylvania oil and pumped it to Bayonne, when that oil arrived at Bayonne, the latter end of the line of that oil, you cut it off and turned the high grade into another receptacle, didn't you?—A. Yes, sir.

Q. And that has always been your practice, so far as you know, hasn't it?—A. Yes, sir.

Q. So that you do know that at least two grades of Pennsylvania oil were kept separate in that way and delivered separately?—A. I think I do.

Q. Did you also transport Lima-Indiana oil through these same pipes to Bayonne?—A. I can not answer that at present—at that time.

Q. You know that they connected with the Lima field, don't you?—A. No; I don't know what they did then. I know that we have since handled Lima oil.

Q. Don't you know that during 1904 and 1905 you also handled Lima oil?—A. I can't say positively.

Q. How can you find out?—A. I might look it up and see.

Q. Will you do so? Will you please examine your records and testify as to whether, during the time you were superintendent, 1904 or 1905, you transported Lima-Indiana oil from Ohio or Indiana to Bayonne in the same manner you transported these western Pennsylvania oils?—A. I have nothing to do with Indiana and Ohio, you understand.

12287 Q. But they come through the lines of which you are superintendent, don't they?—A. We have had them since then, but I can not say at that time.

Q. Since then?—A. Yes.

Q. How do you do it now?—A. We pump different oils, one after the other.

Q. Very well. You receive the Lima-Indiana oil at what place?—A. I think at Colegrove.

Q. At Colegrove?—A. We have received some there.

Q. You receive some at Colegrove, Pennsylvania. That is on the National Transit Company's line?—A. Yes, sir.

Q. Is that the place that it connects with the Buckeye Pipe Line?—A. Not that I know of.

Q. Well, that is where your jurisdiction is. Who has jurisdiction west of there?—A. Mr. Huyck, I believe, is superintendent west of there—comes to that point.

Q. Do you receive also Lima-Indiana oil in any of the other lines of which you are superintendent?—A. Not that I know of: at the present time I do not recall it.

Q. How long have you been receiving Lima-Indiana oil and transporting it to Bayonne?—A. I said that I did not know anything

about transferring any oil to Bayonne at that time, when we were delivering oil.

Q. You do not suppose it goes out on the ground at Centerbridge, do you?—A. I put it in tanks there. I did not say I transferred it to Bayonne.

Q. Don't you know as a matter of fact that it is transported
12288 to Bayonne in exactly the same way that it was before?—A. Perhaps it is.

Q. I am not asking you for "perhaps;" don't you know it is?—A. I don't know whether I am handling that oil or not—I don't know it.

Q. That is, you didn't follow up the oil personally and see it delivered?—A. I don't look after the grades; I don't keep tab on all those things.

Q. How do you happen to know about these other transportations of oil that you have testified to?—A. These are of recent date, and I have given very careful attention to my business.

Q. As superintendent, isn't it your business to know what kind of oils you transport and to arrange for their being cut off and kept separate?—A. As a rule, yes, sir.

Q. To whom are directions given as to what quantities of different grades of oil shall be transported?—A. Do you mean to whom I gave directions?

Q. Yes, sir.—A. Or from whom I receive directions?

Q. Both. From whom do you receive such directions and to whom do you give directions?—A. I receive my directions from Mr. Pilkington.

Q. Who is he?—A. A gentleman over in 26. He looks after the oil.

Q. What is his position?—A. I don't know what his title is. He gives instructions as to the movement of the oil.

Q. What is his name?—A. Mr. W. W. Pilkington.

12289 Q. Do you know what his position is?—A. I do not.

Q. You don't know anything about it?—A. No, sir.

Q. You obey his instructions?—A. Yes, sir.

Q. You receive instructions from Mr. Pilkington?—A. Yes, sir.

Q. You receive instructions from Mr. Pilkington to transport a certain amount of Lima-Indiana oil from Colegrove to Centerbridge, do you?—A. If that is where it is to go; yes, sir.

Q. Well, take that as an individual case. Then, what instructions do you give?—A. I get that oil and continue to pump it right on through there.

Q. Now, suppose you should accept 50,000 barrels of Lima-Indiana oil at Colegrove. When you have pumped 50,000 barrels of that Lima-Indiana oil into the pipes, what do you do?—A. Follow it with something else.

Mr. CRAWFORD. I object to that unless it appears that they ever did accept 50,000 barrels of one kind of oil at the place Mr. Kellogg has named.

Q. Well, if the gentleman is so technical; when you receive an order from Mr. Pilkington to pump a certain number of barrels of

Lima-Indiana oil from Colegrove to Centerbridge, tell us how you do it.—A. Well, we would pump it. Receive it and move it forward.

Q. After you have pumped the number of barrels that the order covers, what do you do then?—A. Carry out whatever order followed it.

Q. Suppose the order which followed it was for Pennsylvania oil?—A. What do we do?

12290 Q. You pump it right into the same pipes, don't you?—A. Yes, sir.

Q. Now, when it gets to Colegrove, and the number of barrels of Lima-Indiana oil that are in this order have reached there, how do you cut it off?—A. Turn it into a tank corresponding with that grade of oil.

Q. You cut off the Pennsylvania oil into another tank, do you?—A. Certainly.

Mr. CRAWFORD. And you cut off the contaminated oil into a third tank?

WITNESS. Yes.

Mr. MILLER. You said Colegrove there. I think you meant Centerbridge.

Mr. KELLOGG. Yes; I mean Centerbridge.

WITNESS. Yes; I understood him.

Q. Now, is there one line that you use exclusively for Lima-Indiana oil?—A. No, not that I know of; that is, where we have other lines.

Q. Now, at Centerbridge, after you have delivered this Lima-Indiana oil into tanks, it is pumped on through the line to Bayonne, isn't it?—A. To some point there. I don't know that it always goes to Bayonne. It is pumped forward from that point to some place.

Q. To some of the refineries of the Standard Oil——A. To some place, yes.

Q. ——down here on the seaboard?—A. To some point.

Q. Do you keep a record of the amount of each oil pumped and of the amount of contaminated oil?—A. No, sir.

12291 Q. You do not keep any record of it?—A. Not any very careful record.

Q. Well, how careful?—A. We know that we pump that and from time to time watch it, but just in batches——

Q. You keep a record of the amount of each grade of oil you pump, don't you?—A. In a general way; yes, sir.

Q. In a general way? That is an accurate record, isn't it?—A. I do not keep those records for any other purpose than just while the oil is moving.

Q. I am not asking you for what purpose. You keep that record, don't you?—A. In a general way, yes.

Q. And you charge a certain rate of pipeage per barrel to each company transporting oil over your line?—A. I do not know anything about that part of the business.

Q. You don't know anything about it?—A. No, sir.

Q. Who has charge of that?—A. I don't know.

Q. You don't know anything about that at all?—A. No, sir; I don't. I am entirely ignorant of that.

Q. Who keeps the record at Centerbridge?—A. Of the amount of oil that is received there?

Q. Yes.—A. Mr. Pilkington.

Q. And the different grades?—A. I presume so.

Q. Then, you must keep a record of the amount of oil of each grade and the amount that is contaminated, don't you?—A. I presume he does.

Q. Do you know whether he does or not?—A. I do not.

Q. The men at Centerbridge are under your direction, are they not?—A. Yes, sir; but at the same time they report to

12292 Mr. Pilkington the oil received there.

Q. Don't they report it to you also?—A. They do.

Q. Where do you keep the records of that?—A. I do not pay particular attention to keeping records of that, but I get those reports.

Q. Where do you get them?—A. I get them at my office at Lancaster.

Q. From those reports do you keep books showing the amount received and the different grades of oil?—A. Not accurately; no; I do not.

Q. Well, how accurately?—A. I do not keep them at all; that is, any general book. I do not run any account through.

Q. What do you do with the reports when they come to you?—A. If anything unusual happens I investigate it, and if there is nothing I pass it off.

Q. Pass it off where?—A. I forget it and let it go in the business.

Q. I know you forget it, but you keep a regular set of books showing the amount of oil transported, don't you?—A. No; I do not, myself.

Q. Don't you keep those reports?—A. Mr. Pilkington keeps those reports.

Q. Now, do you have separate lines through which you [illegible] Lima-Indiana oil from Ohio to the seaboard?—A. As I [illegible] I do not know anything about the Ohio end of it. From Colegrove we only have one line.

Q. You only have one line?—A. Yes, sir.

Q. Do you use that exclusively for Lima-Indiana oil?—

12293 A. No; I can not say that we do. I don't know.

Q. You know whether you do or not, don't you?—A. No; I do not know.

Q. Why don't you know?—A. For the reason I think there are different oils pumped through. I am not positive of it.

Q. You are the superintendent and have charge of it?—A. Yes, sir.

Q. You must know what you pump through.—A. I know there are oils going through there at different times, but I can not say positively that it is exclusive.

Q. Who does know? Does Mr. Pilkington?—A. I think so.

Q. Do you pump any Lima oil through the Southern Pipe Line?—A. I have no recollection of doing it.

Q. Or through the Crescent?—A. I could not say positively now whether we have or not.

Q. Who would know about it?—A. I think Mr. Pilkington could furnish you that information.

Q. How many years have the pipe lines with which you are connected—any of them, I mean—been transporting Lima-Indiana oil to New York Harbor?—A. I can not answer that.

Q. You know when that Lima-Indiana field was opened and when the pipe lines were connected with yours, don't you?—A. No, sir.

Q. You don't know anything about that?—A. I know nothing beyond my jurisdiction.

Q. Do you try to know nothing beyond your jurisdiction, Mr. Vandergrift, or do you generally keep informed?—A. I do not try to find out anything beyond my jurisdiction.

12294 Mr. CRAWFORD. I think counsel is reflecting on this witness in a very unfair way.

Mr. KELLOGG. I am not reflecting.

Q. In other words, you swear you don't know that there have been, for ten years last past, pipe lines from the Indiana field connected with your Pennsylvania pipe lines through which oil has been transported to the seaboard, do you?

Mr. CRAWFORD. What?

A. I refuse to answer.

Q. You refuse to answer?—A. In that way.

(The reporter then read the question, as follows: "In other words, you swear you don't know that there have been, for ten years last past, pipe lines from the Indiana field connected with your Pennsylvania pipe lines through which oil has been transported to the seaboard, do you?")

Mr. CRAWFORD. I object to that question as not in any sense representing what the witness has testified to before at all. It is an entirely new proposition.

Q. Is that true?

Mr. CRAWFORD. Is what true?

Q. You decline to answer, do you?

(No response.)

Mr. KELLOGG. All right. Let us get at it in another way.

Q. When did you first learn that the pipe lines from the Lima-Indiana field were connected with the Pennsylvania pipe lines?—A. I can not say that I ever knew it.

Q. Do you know it?—A. No, I do not.

12295 Q. You have no knowledge whatever on that subject?—A. I can not say that I have no knowledge whatever. I have an idea that there are pipe lines out there, but I could not tell you whether——

Q. Where did you get that idea?—A. Oh, I have read it in the papers and I have heard people talking, etc.

Q. And that is all you know about it?—A. I have not been over the field, to follow it up.

Q. You mean you have never walked over the line, do you?—A. Not on that end, no.

Q. Have you been over every inch of the line that you are superintendent of?—A. Not over every inch, but I have been over a great many miles of it.

Q. How do you know, then, that the line from Colegrove reaches Centerbridge?—A. I didn't say it reaches Centerbridge.

Q. How do you know it reaches Millway?—A. Because I have been over a large portion of it.

Q. Have you been over all of it?—A. No, not exactly.

Q. You know it from the maps and from the information which is in your office, don't you?—A. My line?

Q. Yes.—A. Why, certainly, I know that it comes down——

Q. Now, in the same way don't you know that the Lima-Indiana lines connect?—A. I do not.

Q. You do not? Have you any idea at all what has become of the oil in the Lima-Indiana field during the last few years?—A. I don't know anything about it.

Mr. CRAWFORD. I object to the witness testifying what his idea is.

12296 Q. Have you any knowledge at all that any oil was ever pumped from the Lima-Indiana field to the seaboard?—A. None whatever as far as my line is concerned. I don't know where it comes from.

Q. Do you know that Lima-Indiana oil passes through your pipe lines?—A. I do not.

Q. You never have known that?—A. I have known that we have handled what is known as Lima oil, but I could not say it came from Lima, Indiana, or where it came from.

Q. I didn't ask you if it came from Lima, Indiana. I asked if it came from the Lima-Indiana field.—A. I don't know that.

Q. You know what that field is, don't you?—A. I know of it. I don't know anything about the field.

Q. You do not? Do you know anything about the grade of the oil?—A. Only that it is supposed to be a low-grade oil.

Q. When you receive it for transportation from Colegrove to Centerbridge or Millway, what information do you get as to the nature of the oil?—A. Western gravity, western oil. We go by gravity, if it is 32 or 33, or something like that.

Q. Then you do know you transport western oil?—A. I know we transport an oil of gravity 32 or 33; that is known as western oil.

Q. In your testimony in regard to these tests you have been talking about western oils. What do you mean by western oils?—A. Oils of a gravity of 32 to 33.

Q. You do not call your Pennsylvania oil western oil, do you?—A. Oh, no.

Q. Where does it come from?—A. I don't know.

12297 Q. You don't know anything about it?—A. I don't know anything about where it comes from, the oil I handle. I presume it is from Pennsylvania.

Q. Do you transport oil which comes from Oklahoma and Kansas?—A. I don't know.

Q. What are the names of the oils——A. That we handle—that I handle?

Q. That you handle.—A. I handle Pennsylvania grade, Corning, Cable, Kansas, and Illinois.

Mr. CRAWFORD. Somerset?

WITNESS. Somerset.

Q. Lima-Indiana?—A. Not through one end there, that I know of—the line that I am speaking about in these tests.

Q. Through any part of your line?—A. I say we have pumped Lima oil through the Pennsylvania line; that is, the National Transit Line.

Q. When you say you pumped Lima oil, then you understand that it is Lima-Indiana oil, do you?—A. Not necessarily. We decide it by the gravity. It is known as western oil of a certain grade or gravity.

Q. But you separate the Kansas oil from the other western oils, don't you?—A. At times.

Q. Did you ever mix them?—A. They follow one after another; they naturally mix.

Q. I understand; but beyond the mixing that comes from one following the other, do you mix Kansas oil with Lima oil or Illinois oil?—A. We endeavor to keep them separate wherever possible.

12298 Q. Then do you transport the oils of those different fields to New York in separate amounts and keep them separate, do you?—A. I have said that; we endeavor to keep them separate.

Q. Now, you know, then, don't you, whether any one of your pipe lines under your jurisdiction is used exclusively for the transportation of any one of those grades of oil?—A. I said before that there was not; I do not know of any exclusive line.

Q. Why did you select the Southern pipe line for your test?—A. No special reason, except that it is a big line and one that we handle a great many kinds of oil over.

Q. Isn't it a hilly line, with more loops than the other lines?—A. It may have more loops, but I do not think it has got any more hills.

Q. Well, it has more loops, hasn't it?

Mr. CRAWFORD. Did you make that selection, Mr. Vandergrift?

WITNESS. No, sir.

Q. It has more loops than the other lines?—A. It has more lines looping in, if you so call them. It has more lines that are parallel with each other.

Q. Yes; but it has more loops, hasn't it?

Mr. CRAWFORD. Does the witness know?

A. It depends on what you call a loop.

Q. What do you call a loop?—A. A loop between points; if it goes from one line into another and back into that line again.

Q. It has more loops than the other one?—A. There are a few of those. Of course the more loops there are, the more lines.

12299 Q. I suppose that is perfectly evident; but I asked you if it has more loops than the other Pennsylvania lines that you are superintendent of.—A. Certainly. I told you that the Pennsylvania line was only a single line, and the other, as I have already stated, in one instance, has seven lines.

Q. Yes; but it does not have seven lines running the whole length?—A. No; that is true.

Q. Now, you understand a loop to be where there is a certain distance that has a certain number of lines which are concentrated into a fewer number of lines, don't you?—A. No; I don't.

Q. What do you understand by a loop?—A. Where there is one single line and a branch running off from it for a distance of fifteen miles, more or less, and then joining back into that line; I would call that a loop.

Q. If there are two or three lines that separate there and then run back, that is a loop, is it?—A. I would call them parallel lines.

Q. What do you mean by talking about loops, where you pumped through three separate lines?—A. I don't think I said anything about loops in there.

Q. You have a section of that line that has a larger number of lines than any other, haven't you?—A. That is right in my division.

Mr. CRAWFORD. You mean any other in your division?

WITNESS. I say in my division.

Q. Then the tendency would be greater to mix in the Southern pipe line than in any other?—A. In the single line I suppose that is so.

12300 Q. And for that reason you selected it?—A. I didn't select it.

Q. Who did select it?—A. Mr. Towl. It was agreed. I don't know that there was any selection.

Q. You and Mr. Towl conferred about it. Did you confer upon the subject of the selection with Mr. Towl?—A. He wanted to make a test of various oils there, and I carried out his instructions.

Q. What was the purpose of selecting the Southern pipe line, then?—A. I don't know.

Q. It would mix more on the Southern pipe line than it would on the other, wouldn't it?—A. It is conceded where there are more lines there is more possibility of mixing.

Q. Did you operate these lines during these tests in the same way that you ordinarily operate them in your commercial business?—A. Yes, sir; only exercising more care, if possible.

Q. In the transportation of oils of a different grade, where they follow each other through the pipe, do you use a scraper usually?—A. No; not as a rule, for the reason we have found that it is very uncertain about using scrapers, that is, to separate the batches, while

we do use the scrapers constantly for the purpose of cleaning out the pipe.

Q. Scrapers are constantly used by all pipe lines to clean paraffin out of pipes?—A. Yes; as I understand. We use those frequently.

Q. But you do not have to use those scrapers between batches of oil to do that, do you?—A. No.

Q. You can put the scraper in the same grade of oil——

12301 A. Oh, sure.

Q. ——and clean out the pipes just as well?—A. Sure.

Q. And you do not ordinarily use scrapers in the transportation of different grades of oil, do you?—A. No; not as a rule.

Q. Did you use scrapers in all these cases?—A. No, sir.

Q. In two cases?—A. Yes.

Q. Three, I think.—A. Three; yes, sir.

Q. Three out of the six?—A. Five.

Q. No; six. Oh, yes; three out of five. I beg your pardon. In the commercial transportation of oil through the Southern pipe line do you use the same number of pipes that you used in these tests?—A. Why, certainly; all the pipes are in operation.

Q. What is that you said?—A. I said all the lines or pipes are in operation.

Q. But are all the lines of pipe between Morgantown and Millway in operation in the transportation of each grade of oil that you send through all at once, each time?—A. You mean——

Mr. CRAWFORD. Do you mean they were used in these tests? Is that your question?

WITNESS. Do you mean in the particular test, or how do you mean that?

Q. In your commercial business?—A. We have got all the lines in operation. They are in operation constantly.

Q. I know, but you can pump oil from Morgantown to Millway of one grade through one set of pipes and at the same time another grade through another set of pipes, can't you?—

12302 A. Yes, sir.

Q. Very well. So that it is entirely practicable to use at least two complete lines at the same time for transporting oil of different grades from Morgantown to Millway, isn't it?—A. The way matters are arranged now we do do that.

Q. You do do that?—A. For the purpose—I don't need to answer that now, I guess; you didn't ask it.

Q. For what purpose?—A. For the purpose of avoiding mixture in the Pennsylvania grade oils, so far as possible.

Q. Have you got more than two pipes or two systems that you use?—A. No, sir.

Q. Just two?—A. That is a matter of an engineering character, and I would refer that to Mr. Towl. He is the——

Q. But you are the superintendent?—A. Yes.

Q. Have you got more than two complete lines that you can use?—A. No. I say we could use, but it would not be practicable; it would not be advisable to use them.

Q. But you have more than two lines you can use clear through, haven't you?—A. We are divided up into two separate groups.

Q. You have divided it into two separate groups?—A. Yes.

Q. Couldn't you divide it into more than two separate groups?—A. As I said before, that is a matter of an engineering character, and I would refer that to the engineer.

Q. Do you, as a matter of fact, divide it into more than two?—A. No.

Q. You are an engineer, aren't you?—A. Not in the sense that I am a graduate of a college or anything like that.

12303 Q. Well, you were for fifteen years engineer of these lines?—A. Yes; mechanically.

Q. You have had a great deal of experience, haven't you?—A. I rather think so.

Q. Is it practicable to divide that line from Morgantown to Millway into more than two systems?—A. I would say no, emphatically.

Q. Why not?—A. There is not the required number of lines at various points to justify it, to give an equal distribution.

Q. You think it is more economical to operate them in two?—A. Not necessarily. It is economy, but there are not the lines. In some of the places there are only two or three.

Q. Well, it is physically possible to divide them into more than two?—A. If you lay more lines it might be.

Q. When you were figuring in these tests did you have it divided into two or one?—A. In the test in question we had the whole business divided into two, but we were using the larger portion for this test.

Q. You were using the larger portion for this test?—A. Yes. That division, though, is only of a temporary nature.

Q. In the transportation of different grades of oil, since you have had this divided into two systems, do you follow the different grades through the same pipes, or do you run them through the separate systems?—A. In using the one system we endeavor to pump the higher grade oils, the Pennsylvania grades, through, and prevent as much as possible this mixture. Then, when the emergency arises, we have at times to send that other grade through the other group of lines.

12304 Mr. CRAWFORD. What other grade?

WITNESS. The Pennsylvania grade or other oils.

Mr. CRAWFORD. You mean you send the Pennsylvania oil through the larger part?

WITNESS. We have to at times, yes; some portion of it.

Mr. CRAWFORD. You do that frequently, don't you?

WITNESS. Yes, sir; we have to, to get the quantity of oil through.

Q. Then, do I understand you are using the larger system principally for the lower grades of oil?—A. Yes, sir.

Q. And the smaller system for the higher grades?—A. Yes, sir.

Q. And usually you keep them separate in that way?—A. We do; but as I have said——

Q. But when you have an emergency you use the same line for both grades?—A. But that arises quite often.

Q. And the smaller system would not mix as much as the larger?—A. I would rather think not; in fewer lines.

Q. Now, in making these tests which you made, you used the larger system?—A. That is correct.

Q. How many relays did you say you had?—A. You mean stations or junctions?

Q. Stations where you pumped the oil into tanks and then out again.—A. In this case here, on this particular line, we do not always put the oil into tanks. We have what we call a hill pressure. We back up the western end of the oil and take it directly into the pumps.

Q. How many tanks did you run it through?—A. In those
12305 cases there, the oil went all the way through from Morgantown to Millway without entering a tank.

Q. Without entering a tank at all?—A. Owing to this hill pressure.

Q. You did not use any tanks?—A. No, sir.

Q. From one end to the other?—A. Except at Millway and the starting point.

Mr. CRAWFORD. The oil mixed as it went through the pumping, didn't it?

WITNESS. Oh, yes. It all went in together, in one common pipe, into the pump.

Q. Now, take that first test, No. 1. You pumped in at Morgantown, 155,605 barrels of a gravity of 44.3 degrees?—A. Yes, sir.

Q. That is what you call high-grade Pennsylvania oil?—A. Yes, sir.

Q. Preceding that oil was a low-grade oil, wasn't it?—A. Yes, sir; western oil.

Q. Western oil. About what grade?—A. About 33 gravity.

Q. About 33. What place?—A. I don't know. Either at Kansas or Illinois; of that nature.

Q. You know Kansas oil as Kansas oil and Illinois oil as Illinois oil, don't you?—A. No, sir; we treat those oils, as a rule, as western oil.

Q. But you don't mix them?—A. Oh, no.

Q. Now, which one was it?—A. I could not tell you that off-hand.

12306 Q. Have you got a record of it?—A. I think I have.

Q. Well, look it up and let us know. About 33. How accurate are you about that? Was it 33, 34, or 35?—A. No; it might have been between 32 and 33. It was not 33½ or——

Q. Why didn't you produce the exact figures of that?—A. I can probably do that.

Q. That is important—to know the gravity of the mixture, isn't it?

Mr. CRAWFORD. He will do that if you want him to.

A. I probably have it.

Q. Very well; I would like that. I want the gravity of the oil that preceded each one of these tests. Pennsylvania oil of the higher grade varies a little, doesn't it, in different parts of the pipe?—A. Yes. I don't know about parts of the pipe. The oil is supposed to vary a little in grade, in gravity.

Q. What you call high-grade Pennsylvania oil, which sells in the market at the same price, varies some as to its degree of gravity, doesn't it?—A. I am only treating it in this case as Pennsylvania oil; oil of 44. I don't know what you have reference to in your high grade.

Q. Is that a high grade or low grade?—A. I would consider it a good grade of oil, but there may be better than that.

Q. How much is there better than that?—A. I don't know.

Q. In 155,000 barrels, measuring as it goes into the pipe, each barrel, or each ten barrels, or each fifty barrels, or each one
12307 hundred would not be of exactly the same grade would it?—A. Not in point of gravity; no.

Q. It would vary?—A. A trifling amount.

Q. Where did you take this test of 44.3?—A. At the pump; at the entering of this oil.

Q. At the start?—A. At the start; yes, sir.

Q. Now, you delivered out at Millway 139,857 barrels of 42.6 or upward?—A. Yes, sir.

Q. How much of it was over that?—A. What do you mean by "over?"

Q. Over 42.6?—A. I don't know. We used 42.6 as a cutting point, and everything that was above that we gave over to the higher gravity of oil.

Q. What was the grade of the 15,748 that you call contaminated?—A. That was all below 42.6.

Q. How do you know? Did you test it all?—A. We tested it as it came in, and none of it came above that, and of course we turned it in.

Q. You made one test?—A. We made a series of tests.

Q. What was the grade of that oil, the 15,748?—A. Of a gravity less than 42.6.

Q. Haven't you got a record to show just what the gravity of that was?—A. From that on it fell down to the western oil gravity of 33.

Q. How do you know? Did you test it all?—A. Certainly.

Q. Have you got the record of the test?—A. Why, certainly. When it got below that point, why, we had no further use for it.

Q. How many barrels of that oil tested between 42 and 42.6?—A. I don't know.

Q. How much between 41 and 42.6?—A. I don't know.

12308 Q. How much between 40 and 42.6?—A. I don't know.

Q. Well, isn't that very important?—A. Not necessarily. If you use 42.6 as a cutting point, anything above that went into the grade oil, and anything below it went to the other.

Q. That is a mere arbitrary division, isn't it?—A. Well, you might call it that.

Q. Yes. You don't know that oil of 42.6 or 42 for commercial purposes or manufacturing purposes is not just as good as 43 or 44, do you?—A. No, sir.

Q. Very well. Then that is a purely arbitrary division point, isn't it?

Mr. CRAWFORD. That is the way you do in practice, isn't it?

WITNESS. That is the way we do in practice.

Mr. CRAWFORD. You follow your regular system?

WITNESS. Regular routine.

Q. Suppose that out of those 15,748 barrels, 14,000 of it was 42—between 42 and 42.6—it would not make any difference, would it, to the manufacturer?—A. I don't know about that. I am not a manufacturer.

Q. Have you got any record showing the degree of gravity of the different parts of that 15,748 barrels?—A. Not only until the turning point arrived in both instances during the——

Q. You took no record of the gravity of those 15,748 barrels, except where you cut it off, 42.6?—A. After it reached that point then it was turned the other direction.

Q. And you made no further experiment?—A. No further test.

12309 Q. You did not test the average?—A. No, sir. You have reference to the 15,000?

Q. To the 15,000 barrels. I show you, Mr. Vandergrift, defendants' Exhibit 242, fig. 15, which shows the transportation of oil of 44.9 degrees of gravity, followed by oil of 33.4 degrees of gravity.

Mr. CRAWFORD. You have got that wrong.

Mr. DURAND. It is just the other way.

Mr. CRAWFORD. If you are talking about fig. 15——

Mr. KELLOGG. Fig. 15.

Mr. CRAWFORD. You have got it turned around.

Mr. KELLOGG. It is displacing 44.9. I stated it correctly.

Q. That is, the 33.4 displaced the 44.9, didn't it?—A. According to that.

Mr. CRAWFORD. Yes, that is right.

WITNESS. That is what that statement says.

Q. Then, which would be ahead?—A. Why, I should say the 44.9.

Q. That is just exactly what I said. That is, the 33.4 follows the 44.9.

Mr. CRAWFORD. I do not think that is what you said, but if you mean it now, that is all right.

Mr. KELLOGG. That is exactly what I said, and that is what I mean.

Q. Now, looking at that diagram, it shows the—Did you ever see that diagram before?—A. I don't think I ever did.

Q. It shows that the change commenced at 11.42 and was
12310 completed at 11.45, to wit, in three minutes.

Mr. CRAWFORD. I object to that because that is the construction of counsel upon it. Let the witness testify.

Mr. KELLOGG. Isn't that correct, Mr. Crawford?

Mr. CRAWFORD. I do not think so, no.

Mr. KELLOGG. What is it, then? I wish to put it to him correctly.

Mr. CRAWFORD. I think the change went on for several minutes there.

Mr. KELLOGG. Substantially all the change was in three minutes, wasn't it?

Mr. CRAWFORD. No, I think there was considerable difference there in the three following minutes. However——

Q. Doesn't it show, Mr. Vandergrift, that substantially all the change was in three minutes there?—A. There is a change there, and here is a change up here—45, 42, 43.

Q. Wasn't it, according to that diagram, substantially all changed in three minutes?—A. I presume it was from the way that looks there. Of course the change continued on there for a little while.

Q. It was a very slight change, wasn't it?—A. Yes, it was slight. What it would amount to I am not prepared to say.

Mr. CRAWFORD. Mr. Kellogg, I don't know whether you noticed the fact, but you are talking about a case where heavy oil displaced light.

12311 Mr. KELLOGG. Certainly I am.

Mr. CRAWFORD. Whereas the witnesses have been testifying about where light oil displaced heavy oil.

Mr. KELLOGG. I am coming to that.

Q. Sometimes you have the heavy oil displacing the light oil, and sometimes the light oil displacing the heavy oil?—A. Yes.

Q. In every case where heavy oil precedes, of course the light oil follows, and where the light oil preceded the other follows. So what you lose on one end you make up on the other?—A. What do you mean by making up on the other?

Mr. CRAWFORD. On the contrary, you lose at both ends.

WITNESS. You lose at both ends.

Q. Do your tests show tests of both manners of transportation?—A. What do you mean by "both manners?"

Q. Both mixtures, the light oil following the heavy and the heavy following the light?—A. No, I show the total mixture by the light oil preceding the heavier or following it, as the case may be.

Mr. CRAWFORD. You took the measurement at each end, didn't you?

WITNESS. Yes.

Mr. CRAWFORD. The gravity at each end?

WITNESS. Yes.

Mr. CRAWFORD. Then, that does show the effect of the contact with the heavy oil both at the head and the foot of the column, doesn't it?

WITNESS. Yes, certainly. But I have not separated that out.

12312 Mr. CRAWFORD. No; but the effect of the two is merged in the result that you got there, isn't it?

WITNESS. Yes; I stated that before.

Q. Now, in that case, suppose all that mixture took place in three minutes. How much oil would that include?—A. I don't know. I am not familiar with this arrangement at all.

Q. Well, take another case.—A. I don't know about this part of the test as shown here at all.

Q. You know what these tables mean, don't you?—A. I don't know as I do. I have not looked at them.

Q. Look at Table 17.—A. I infer from this that it is for the purpose of showing the movement of oil in a given time.

Q. Take No. 17. That is a case where the light oil followed the heavy, and the mixture at that end would be necessarily greater.

Mr. CRAWFORD. No; the light preceded the heavy, Mr. Kellogg.

Mr. KELLOGG. No; not in this.

A. The lighter, 45.7, you see displacing the 35.4 in this case, which is just the reverse of what you say.

Q. That is, the light oil following the heavy oil?—A. Yes.

Mr. CRAWFORD. No, no; the light oil preceding the heavy. You do not understand the term, Mr. Kellogg, that is all.

Mr. KELLOGG. Wait a moment.

Q. If 45.7 oil is displacing 35.4, which goes ahead?—A. Why, the heavy oil.

Q. Why, certainly. Then the light oil follows it, doesn't it?—A. Yes, sir; displaces it.

Mr. KELLOGG. Why, of course. I am correct. Mr. Crawford, if you would not get so confused you would do better.

12313 Q. Now, the mixture would be greater in that case, wouldn't it?—A. There would be a lot of mixture; I could not say just exactly what the mixture would be.

Q. Look at that diagram. Is it not a fact that substantially all the mixture that occurred in that case occurred in seven minutes, and would only be about 60 barrels of oil?

Mr. CRAWFORD. I object to that, because that is quite contrary to the testimony of the witnesses explaining this.

Mr. KELLOGG. No; it is just exactly the testimony of the witnesses.

A. I don't know anything about this diagram.

Q. Did you hear Mr. Page testify to it?—A. I was here when he testified, but I could not verify his statements in it. I don't know anything about it.

Q. You don't know what that means?—A. I don't know what his tests did here at all.

Q. You don't know anything about it?—A. No, sir.

Q. You don't know what that diagram purports to show?—A. Well, I understood that it purports to show the amount of the oil——

Q. Didn't you hear him testify to it?—A. I did.

Q. And how the tests were made?—A. I heard him make his statement here.

Q. Didn't you understand it?—A. In a way.

Q. Well, what way, the right way or the wrong way?—A. Oh, I understood it, but I say that is the way you see it there, and this is the way I see it.

12314 Q. Now, tell me if substantially all the mixture there did not occur in seven minutes?—A. I don't know.

Q. Can't tell from that?—A. No.

Q. You don't know?—A. No.

Q. All right. Why is it, in the test that you made, you show such a large amount more of contaminated oil than in the test that he made?—A. Well, ours is a practical test, and we exercised every care. As the oil came in we turned all that was above 42.6 and so on into the good oil, and that that was below we turned into the bad.

Q. Why didn't you show, as in the cases of his tests, the amount of contamination between certain degrees of gravity?—A. That would be probably very difficult to do in turning tanks. We would have had to have numerous tanks to do that, certain reservoirs to turn it into.

Q. Now, those reports that come to your office, showing the amount of each grade of oil transported and the amount of contaminated oil in each case, what do you do with the reports when you get them?—A. Oh, file them. They come in the form of a message.

Q. They come in the form of a message from the stations?—A. Yes, sir.

Q. On the line, from the delivering station?—A. From the station receiving the oil.

Q. At Centre Bridge?—A. Yes; at Centre Bridge or Millway.

Q. Do you keep those reports?—A. For a time.

Q. How long back have you got those reports?—A. Oh, I

12315 don't know; about sometimes in the course of six months or a year we destroy those messages.

Q. Will you produce the reports in your office showing the actual transportation of this oil, the amount in barrels of each grade transported, and the amount of contaminated oil and the grade of that?—A. You mean in these particular tests?

Q. No, sir; in all cases of practical transportation which you have carried on in the last year or two.—A. I don't know whether I can do that or not.

Q. Well, will you try?—A. Yes; I can try if counsel advise me to do so.

Q. Did you make a memorandum, like the details of the test of September 28, 1907, which you used to testify from?—A. Yes, sir; that is a memorandum you have there.

Q. Did you make that as to each one of these tests?—A. My office force made it; yes, sir.

Q. Have you got the other ones?—A. For the various tests?

Q. Yes.—A. I think they can be had.

Q. Will you please produce those? I wish to examine them. Will you do so?—A. I will try to.

Q. Have you got them with you here?—A. No, sir.

Q. Where are they?—A. I think they may be here in New York. I am not—I believe they are.

Q. Now, in the transportation of crude petroleum through pipes from western Pennsylvania to New York Harbor, it loses a certain amount of gravity in any event, doesn't it?—A. That I can't state.

Q. Don't you know the gravity of the oil when you put it in?—A. I do.

Q. Don't you know the gravity when you take it out?—
12316 A. I don't know that there is any loss.

Q. Do you know that there is not?—A. I don't.

Q. In your experience you have not ever discovered the fact that the transportation of crude petroleum through pipe lines tends to decrease the gravity?—A. I don't know that I have.

Q. Never heard of it?—A. I don't think I did.

Q. You never heard of that?—A. I say no.

Q. All right. Do you know anything about the pipe lines of the United States Pipe Line Company?—A. No, sir.

Q. Do you know where they run to?—A. I do not.

Q. You know there is such a line, don't you?—A. I have heard so; yes, sir.

Q. Do you know it transports oil of different grades in lots of four or five thousand barrels each?—A. I do not.

Q. For different owners?—A. I do not.

Q. If they can do it, you could, couldn't you?

Mr. CRAWFORD. I object to that, because the witness says he does not know it, and it has not been proved that they do.

WITNESS. I don't know it.

Mr. KELLOGG. Well, it will be proved.

Mr. CRAWFORD. It has not been proved and you can't prove it on this witness.

Q. Now, in the transportation of Lima-Indiana oil through the lines of which you are superintendent, do you run that into separate tanks at your relays?—A. We put it into tanks for that purpose; yes, that kind of grade oil.

Q. You run it into separate tanks, different tanks from
12317 those into which you run the Pennsylvania oil?—A. Oh, yes.

Q. That is, in transporting Lima-Indiana oil from Colegrove to Millway or Centre Bridge or Bayonne, along the line where you relay it you pump it into a different set of tanks from those into which you run the Pennsylvania oil?—A. If we are doing that; yes, sir; if we happen to have two different grades of oil.

Q. And you have tanks along the line so that you can do that, do you?—A. We can turn any oil that we may wish into any tank.

Q. In other words, if you are pumping a batch of Lima-Indiana oil, following it by a batch of Pennsylvania oil, you would use different tanks for the Lima-Indiana than you would for the Pennsylvania?—A. Presumably, yes.

Q. You could do that, couldn't you?—A. Oh, yes.

Q. And you do it, don't you?—A. Yes, we can—we have.

Q. That prevents a certain amount of mixing, doesn't it?—A. Oh, yes; decidedly.

Q. The line between Morgantown and the Pennsylvania state line you say now belongs to the Eureka Pipe Line Company?—A. It is known as the Eureka Pipe Line; yes, sir.

Q. About how many miles is that?—A. About 12 miles or a little over.

Q. How long has that belonged to the Eureka?—A. Oh, I guess it has always belonged. I don't know anything different; ever since the line was built it was known as the Eureka.

Q. It is operated as a part of the Southern, is it?—A. Yes.

12318 Q. In this test of September 28, where you got such a large percentage of contaminated oil, the cause of that was the stopping of the pipe by the scraper, wasn't it?—A. Not necessarily.

Q. Well, it did cause it, didn't it, to some extent?—A. It may have caused it. It may have contributed to it; it did not cause it.

Q. Now, where you are using a scraper in a line and you come to a place where there is a relay and a different-sized line——A. Yes, sir.

Q. I don't mean a relay; I mean a loop——A. A junction.

Q. And a different-sized line, what kind of apparatus do you have for taking out that scraper and putting in another?—A. We have what is known as a Y. There is a branch in it where it can run up into a dead end and be caught, and then we have a corresponding one on the other end, on the larger diameter, so that another one can be started; and then around between the two we have what we term a by-pass, a pipe running from the 6 to the 8, which permits the oil to be passed around through this by-pass during the operation of either taking out the 6 or putting in the 8, as the case might be.

Q. It is called a trap?—A. Not necessarily. You could call it a trap. We call it a scraper box.

Q. When the scraper goes into this trap, or box, or whatever you call it——A. Yes.

Q. It should be taken out at once, shouldn't it?—A. Not necessarily. There is room enough in there for it to pass up into

12319 a dead end, so that it leaves the opening entirely clear for any oil that may be passing.

Q. And it does not tend to mix the oil in there?—A. You mean leaving it in there?

Q. Yes.—A. Not necessarily; no.

Q. Well, does it at all?—A. No; not after it is once in the box it should not.

Q. It has no effect toward mixture of the oil unless it is taken out promptly?—A. No; it would not make any difference whether you took it out promptly or not. You could leave it in there for weeks without affecting the oil in any manner whatever.

Q. Now, the oil moves faster without the scraper ahead of it than it does with it, doesn't it?—A. Well, I can't say that. It is supposed that the scraper moves as fast as the oil.

Q. Does not the scraper tend to retard the movement somewhat?—A. A little; yes, sir; but we don't notice it at the stations when they have a scraper in unless it gets stuck.

Q. So that if a scraper goes into a box, does the other automatically go into use in the next small pipe?—A. How is that? Does the other what? I don't understand that.

Q. If the scraper in the larger pipe comes into a box or stopping place, what starts the other scraper in the small pipe?—A. Let me go over that again—that explanation I gave to you. Supposing you had an idle space in the end of a line where a scraper from a 6-inch could walk into it—a trap, so to speak—and that you had west of that opening a line running around, which we would term a by-pass,
12320 so that you could convey the oil around to the other line without interfering in any way with the one that you have trapped the scraper in. Now, that is the device we use. That scraper runs in there—in the box—and it is trapped. It does not have any effect on the oil passing through afterward. It can remain there for a week.

Q. After the scraper in the large pipe goes into the trap, as you call it?—A. No; we will take it one way, going either east or west. Usually, you know, we receive a line of oil coming in one direction. We are running now from a 6 into an 8.

Q. Suppose you are running from an 8 into two 6's?—A. Well, then, the same thing. Then we trap the 8.

Q. Then you trap the 8?—A. Yes, sir.

Q. What starts the scraper in the 6?—A. Then we shut off this by-pass and that shoves the other one right out.

Q. Automatically?—A. Automatically. It goes out instantly.

Q. Is there somebody there to do that?—A. Oh, in all cases.

Q. If he does not do that promptly, the oil flows on freely, does it?—A. It would not make a particle of difference at all, because until that scraper was moved out of this dead end there would not be any contamination or mixture.

Q. Quite so; but the oil would flow faster without the scraper, wouldn't it?—A. Yes; it might make a little difference.

Q. I should think so.—A. I don't think you would notice it anywhere on the line.

Q. In the case where it was 6 hours here you said there was a scraper got stuck?—A. Yes, sir.

Q. And in the other case you testified to, where was that?—
12321 A. That was coming into Millway.

Q. Coming into Millway?—A. I think so, if I remember right.

Q. How far behind was the stream there?—A. How far behind?

Q. Yes; the stream in one of the pipes behind the other?—A. I will have to look that up.

Q. You said 40 hours, didn't you?—A. Some 40 odd hours that the scraper was behind.

Mr. CRAWFORD. That the scraper was behind.

Q. That the scraper was behind?—A. Yes, sir; the scraper was behind instead of the stream.

Q. The only explanation you can make of that is that the scraper got stuck?—A. That happens at any time, any day when you run scrapers. We have to cut the line quite often to take them out. They jam up, one against the other.

Q. You do not use them in the ordinary transportation of oil to divide two kinds of oil, do you?—A. Not as a rule; no.

Q. Not as a rule. Now, Mr. Vandergrift, can you say that in the cases where you made the test enough contaminated oil existed of a sufficiently different grade to make any appreciable commercial difference in these grades of oil?—A. I have already stated that as far as the commercial part of it, I know nothing of that.

Q. For instance, take the first one of 15,748 barrels. You don't know that enough of that was contaminated sufficiently with the low-grade oil to make the whole low enough grade to make any difference in the commercial use of the oil?—A. That question had better be answered by a refiner. I know nothing about it.

12322 Q. Do you keep a record in your office showing the amount of different grades of oil transported through the lines of which you are superintendent, in each batch, and the particular lines through which they are transported?—A. No, sir; not any; I do not.

Q. Does Mr. Pilkington keep that?—A. I suppose he does. I can't answer for Mr. Pilkington.

Q. Does the information which you have in your office when you transport this furnish that?—A. Not necessarily. I get orders to move a certain amount of oil and I move it. It all has to go forward.

Q. Do you know what lines it goes through?—A. I get notice that there is a certain amount to be moved here or there and I move it; that is as far as I do.

Q. Through whatever lines you please?—A. No; I get directions what lines to go through.

Q. Does he direct you what lines to go through?—A. Oh, most assuredly.

Q. Then you must have a record from time to time showing the amount transported and the lines it goes through?—A. Well, I don't have that record. I presume Mr. Pilkington has it.

Q. Somebody must have it?—A. I presume so. I don't have it.

Q. Do you keep the orders you receive?—A. For a reasonable time.

Q. Are they entered in a book?—A. No, sir; just in message form.

Q. Are they kept loose?—A. Yes, sir; in a message form.

12323 Q. Have you got them for the last year?—A. I don't know that I have.

Q. Those orders that you have got and those records would show the amount of oil transported in each batch, won't they?—A. They might. What ones I have might show, for instance, that a hundred thousand barrels of 33 gravity, or 44, or whatever it might be; I don't know that it would give any particulars as to the grade or name or anything of that kind.

Q. Well, the order would come, say, 100,000 barrels of Kansas oil?—A. Not necessarily; no.

Q. How do those orders read? Just tell us.—A. Might say we were going on such and such a date to start a hundred thousand barrels of Pennsylvania oil for Philadelphia or Millway, as the case might be. That would be about all the order I would get. I have nothing to do with that.

Q. Now, suppose you got an order for Illinois oil?—A. That is western oil.

Q. Does it say Illinois oil or western oil?—A. It might in some cases say western oil and it might say Illinois.

Q. You see those orders, don't you, every day?—A. Oh, sure; when they come.

Q. Don't you know what they say?—A. I say they might say western and might say Illinois.

Q. Do they give the gravity of the oil?—A. Sometimes.

Q. Do you understand what it means, and the kind of oil it is, when you get those orders?—A. I am in a position where whatever oil they have to transport it has to be moved. It is nothing to me whether it is Kansas or Illinois, or——

12324 Q. What size of orders do you get?—A. Oh, orders varying from two to three hundred thousand; something like that.

Q. Don't you get them a good deal less than that?—A. Not that I know of.

Q. What do you mean by saying, "Not that you know of?" Do you know that you don't?—A. I know that I don't.

Q. You never got an order less than 200,000 barrels?—A. That I don't know—less than 200,000; probably in the neighborhood of a hundred thousand, something like that. Here is an instance where we pumped 79,000 barrels on this test.

Q. You were doing that to make a test?—A. Yes.

Q. But in your ordinary business do you get orders of a hundred thousand barrels?—A. Oh, yes.

Q. And less that that?

Mr. CRAWFORD. Over what line?

WITNESS. The Southern line.

Mr. CRAWFORD. From Morgantown?

WITNESS. Yes, sir.

Mr. KELLOGG. Yes, sir.

WITNESS. A hundred thousand, he said.

Mr. CRAWFORD. Yes.

Q. Have you got such orders from Colegrove?—A. Why, I have recollections—I recall having been advised that we were going to pump a hundred thousand barrels, or one hundred and fifty thousand, something like that, of different kinds of oil.

Q. Have you any recollection of receiving orders for less
12325 than that?—A. Not lately; I don't recall it

Q. Did you use to?—A. Not that I know of.

Q. Did you ever receive an order as low as 50,000 barrels?—A. I don't recall that I ever did.

Q. You don't recall any particular order, but would you say you hadn't?—A. To the best of my judgment I would say I hadn't.

Q. Then, 100,000 is the lowest you recollect?—A. Might possibly be between 75,000 and a hundred thousand; I would not say positively on that.

Q. Have you received a good many of these orders?—A. We are moving batches of oil all the time, every week.

Q. In batches from 75,000 to two hundred thousand barrels?—A. Oh, yes; in that neighborhood.

Q. Of different grades?—A. Of different grades.

Q. So that you do handle through your pipe lines oils from Kansas, Illinois, Ohio, Indiana, and Pennsylvania in separate lots, through the same pipes, of from 75,000 to 200,000 barrels at a time?—A. I think so.

Q. Now, your lines in Pennsylvania do not buy or sell oil, do they?—A. I know nothing about that part of the business.

Q. Well, you are the general superintendent, aren't you?—A. No, I am the superintendent.

Q. Who is the general superintendent?—A. Mr. Douglas S. Bushnell.

Q. Where is his office?—A. 26 Broadway.

Q. He is the general superintendent?—A. Yes, sir.

Q. Who are the other officers of the pipe lines?—A. I guess Mr. Moffett is the vice-president.

12326 Q. Mr. James A. Moffet?—A. I believe so.

Q. Of the pipe lines?—A. I believe so.

Q. Who is the president?—A. I think Mr. Rogers.

Q. Henry H. Rogers?—A. I believe so. I am not positive as to that.

Q. Now these orders that you receive, do they show to what company you deliver the oil?—A. They may say to Centre Bridge, maybe Philadelphia, in that refinery.

Q. If you were delivering it to the Atlantic refinery at Philadelphia, it would so state, would it?—A. It would say Philadelphia.

Q. Atlantic refinery?—A. No.

Q. What other refinery would it be delivered to then?—A. None other there where our line empties. It could not go anywhere else.

Q. What line takes it then?—A. That is the refinery at Philadelphia.

Q. Well, that is what I say. What refinery would you say then it was delivered to?—A. It would not say. It would just say Philadelphia.

Q. What do you mean by the Atlantic refinery?—A. I say there is only one refinery there, the Atlantic refinery.

Q. Then you would deliver to the Atlantic refinery, would you?—A. Why, certainly.

Q. Would the order so state?—A. It might not say "Atlantic refinery." It would say Philadelphia.

Q. Suppose you are delivering oil at Bayonne. What
12327 refineries would you deliver it to there?—A. It would not show any. It would just say Centre Bridge.

Q. I mean prior to the time that you separated the lines?—A. Oh, I don't recall now what it would say.

Q. Does it give the shipper of the oil?—A. No, sir; not that I know of.

Q. You don't know then whether the pipe lines in Pennsylvania are simply transporting lines?—A. I don't know anything about it.

Q. You don't know of any other business they do, do you?—A. Nothing but handle oil.

Q. They just transport oil?

Mr. CRAWFORD. He says he does not know. I object to the question.

Q. Have you ever been connected with any of the other pipe lines, other than those you have named?—A. Not for a matter of over 20 years; I have been with this present pipe line. I was formerly with the United Pipe Lines.

Q. With the United?—A. A good many years ago.

Q. Those were gathering lines, were they, principally?—A. Yes—back in the 80's.

Q. Who was Mr. Daniel O'Day?—A. I believe Mr. Daniel O'Day was formerly a vice-president.

Q. Of the United?—A. I could not say that.

Q. What was he vice-president of?—A. That I don't know.

Q. How did you know he was vice-president, then, if he was not vice-president of anything?—A. I have known and heard of him being vice-president.

12328 Q. Of what?—A. And I have understood, of the National Transit Company.

Q. Did you ever hear of the American Pipe Line Company?—A. No.

Q. Never heard of it—the American Transfer Company?—A. I recall in early days there was such a company.

Q. Was Mr. Daniel O'Day connected with that?—A. I can't say positively.

Q. Were you?—A. I have a faint recollection of working for them at one time.

Q. Working for them at one time. Now, at that time was Mr. Daniel O'Day connected with it?—A. I did not come in contact with him, did not have any business with him.

Q. Do you know whether he was connected with it?—A. I don't know positively; no.

Q. You don't know positively. What do you mean by that?—A. I mean that I could not swear to it. I had no business with him.

Q. You did not see the record of his election?—A. No, sir; nothing of that kind.

Q. Was he reputed to be an officer of that company?—A. That I could not say.

Q. What position did you have with them?—A. Me—I was helping set up machinery, etc.

Q. Whereabouts?—A. I have been in Oil City.

Q. Where did it have a pipe line?—A. What?

Q. Where did it have a pipe line?—A. Why, they had a loading station there at Oil City, what was known as a landing,

12329 loaded tank cars and things of that kind.

Q. Loaded onto railroad tank cars?—A. Yes, sir.

Q. Where did the lines run from that?—A. That I don't recall.

Q. They were gathering lines, were they?—A. Yes, just small lines around in the field.

Q. What field was that?—A. Around Oil City.

Q. Where was the headquarters?—A. That I could not tell you.

Q. Was it not Oil City?—A. I could not say.

Q. Did you see Mr. O'Day in those days?—A. Oh, I might, but I didn't have any dealings with him.

Q. You had no personal dealings with him?—A. No; nor indirectly.

Q. But was he there in charge of the lines?—A. No, sir; not to my knowledge.

Q. What did you understand his position to be?

Mr. CRAWFORD. I object to what the witness understood. He says he doesn't know.

Q. What became of the American pipe lines?—A. I don't know.

Q. They are in existence yet, some of them, aren't they?—A. Not to my knowledge.

Q. Not to your knowledge?—A. No.

Q. Do you know whether they are or not?—A. I do not.

Q. You worked for the United Pipe Line after that?—A. I worked for the United Pipe Line in 1778.

Q. In 1778?—A. Oh, 1878, I want to say. That was too long.

Q. Was that before you worked for the American Transit Company?—A. Yes, sir.

Q. Afterward did you work for the American Transit Company?—A. Did I say before?

12330 Q. Yes.—A. That was after, I think, I worked for the American Transfer.

Q. You worked for the United after you worked for the American Transfer?—A. Yes, sir.

Q. Didn't the lines of the American Transfer become then a part of the lines of the United?—A. I believe there was a gathering-in of various lines, but I don't know that positively.

Q. Weren't they operated during the time you were there by the United?

Mr. CRAWFORD. Do you know?

WITNESS. I don't know. I say I don't know positively. I don't know.

Q. Well, do you know generally that they were?—A. I could not say that. I don't know what office or what position the American Transfer Company had. I know there was such a thing, or a company known as the American Transfer.

Q. Do you know that the lines were operated after the United Pipe Lines was organized?—A. I do not.

Q. Were you at Titusville at that time?—A. I was at Oil City for a short time.

Q. At Oil City at that time?—A. Yes, sir.

Q. How did you know that the American lines were operated there at all?—A. Why, they loaded cars there at Oil City—the American Transfer, as I said before.

Q. Were cars loaded at the same place after the United was doing business?—A. I could not say that. They had their separate loading place, and that is all I know.

Q. Mr. Bushnell—what was his name?—A. Douglas S. Bushnell.

12331 Q. Is he any relative of Mr. John Bushnell?—A. I rather think he is.

Q. What relation?—A. I believe he is a nephew.

Q. A nephew of John Bushnell. Is John Bushnell connected with the companies now?—A. Not that I know of. I don't know anything about that.

Q. Where does the Crescent Pipe Line Company run?—A. From a point west of Pittsburg known as Greggs Station to Marcus Hook on the Delaware River.

Q. Did you say you were connected with that?—A. Superintendent.

Q. And you have been connected with that how many years?—A. Since, I think, around about 1890 or something like that—since, let me see, in 1895, I believe.

Q. In 1895?—A. I am not sure about that point; 1895 or 1897; somewhere along in there.

Q. Well, about the time that it was acquired by the Standard?—A. Yes, sir.

Q. Who previously owned that pipe line and operated it—the Mellens?—A. It was generally understood that the Mellens owned it.

Q. Of Pittsburg?—A. Of Pittsburg; yes, sir.

Mr. CRAWFORD. You don't know that, do you?

WITNESS. I don't know, sir.

Q. It appears in evidence that it was acquired about that time. Well, some time from 1893 to 1895?—A. Somewhere in that neighborhood, whenever it was turned over.

Q. I show you petitioner's Exhibit 356–F.

Mr. CRAWFORD. What volume is that?

12332 Q. Vol. 8, printed record. Is that a substantially correct map of the trunk line of the Crescent Pipe Line Company?—A. Yes, sir. It starts at Greggs Station and ends at a point known as Marcus Hook on the Delaware River.

Q. Now, did that line when it was turned over to the Standard also have some gathering lines?—A. Why, it may have had, but I have no knowledge of it.

Q. You were not familiar with the gathering lines prior to that time?—A. I had nothing to do with anything except the trunk line end of it, from Greggs through.

Q. Do you know about a pipe line formerly known as the Western-Atlantic Pipe Line—A. I do not.

Q. Did you ever hear of it?—A. I don't know but what I have heard of it. I could not tell you anything about it, I don't know where——

Q. Western & Atlantic, perhaps?—A. I don't know anything about it, where it is located.

Q. Do you know where it ran or where it was situated?—A. No, sir; I do not.

Mr. KELLOGG. That is all. I would like the information that I have asked for.

Redirect examination by Mr. CRAWFORD.

Q. Where you pump different grades of oil through the same pipes in the manner that you have testified to, with the resultant mixture that you have testified to, as I understand you commonly turn the mixed part of the oil into a separate tank. Is that correct?—A. Yes, sir.

12333 Q. That is, you turn what comes out of the high grade, or what you consider of a high grade, into one tank, and what is of the low gravity into a second tank, and the intervening mixture into a third tank?—A. If we can do that, in the majority of cases, yes.

Q. That is the general practice, isn't it?—A. Yes, sir; the point is to separate the oils.

Q. Now, in all the various instances that you have testified to, whether recently or in the past years, when you have had charge of or have known of pumping different gravities of oil in the same pipe, has a considerable degree of mixture taken place?—A. In all cases.

Q. And the conditions have been the same as those you have testified to to-day in regard to the Morgantown line, have they?—A. Most assuredly, only that we exercised in this particular case, or these cases, more care in noting the result, if possible.

Q. When you said that you turned, I think you said Pennsylvania grade oil, into one tank and a low-gravity oil following it or preceding it, into another tank, you did not mean to be understood as testifying that you made a sharp division between the high gravity and the low gravity?—A. Oh, no; we saved that then that was mixed.

Q. There was mixture in there just the same?—A. Oh, yes; and that mixed went into separate tanks.

Q. This mixture is not any modern thing, is it?—A. Oh, no; it has been known for years, and we have been having that trouble right along.

12334 Q. It has been quite a study with you how to minimize it, hasn't it?—A. That is right. We have used every care we know how.

Q. And still you have it?—A. And still we have it on every batch.

Q. In large amounts?—A. More or less; yes, sir.

By Mr. KELLOGG:

Q. In transporting a high-grade Pennsylvania oil of approximately 44 degrees gravity, followed by a western oil of a lower gravity, do you know that the mixture of the high grade with the lower grade is of low grade enough and of a large enough amount to be a serious thing in a commercial transaction?—A. I do not.

Q. For all that you know, in separating the stream of high grade from low grade, the amount of contaminated oil of a different grade may be so small as not to cut any particular figure in the transaction?

Mr. CRAWFORD. I object to that, because the witness says he does not know.

A. I could not answer that.

Q. You could not answer. All that you know is that you did cut off here fifteen thousand and some barrels, and a little more or a little less in other cases, of oil below 42.6 grade?—A. Yes, sir.

Q. But you don't know anything about how much of it was of 42 and how much was 41 or 39?—A. No.

By Mr. CRAWFORD:

Q. The oil from 42.6 down to the gravity of the lower grade
12335 oil, the western oil, say 33, that is kept in a separate tank, a third tank, isn't it, by itself?—A. Yes, sir; and known as mixture.

Q. And handled as a third proposition, isn't it?—A. And handled as a third proposition; moved as mixture.

12336 C. W. BUNCE, called on behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Mr. MILLER:

Q. Where do you live?—A. Stillwater, New York.

Q. And what is your business?—A. Boating between here and Canada—transportation.

Q. You are engaged in transportation?—A. Yes, sir.

Q. From New York, and New York Bay and Harbor?—A. Yes, sir; from New York.

Q. To points in Canada?—A. Well, sometimes.

Q. And to intermediate points?—A. Well, no, sir; but I do a business for 12 years between here and Burlington.

Q. Between here and Burlington, Vermont?—A. Yes, sir.

Q. And what is your route from here?—A. Up the Hudson River to Albany, a tow—well, we take a tow from here to Waterford, and then we have 66 miles of canal. We lock into Lake Champlain, and then we go through Lake Champlain by a tow, towed by a steamboat.

Q. How long have you been engaged in this transportation?—A. Along about 20 years or a little better.

Q. And you carry commodities or goods of different kinds for hire, do you?—A. Yes, sir; anything I can get.

Q. At a charter rate. During the time you have been engaged in this business, have you ever carried petroleum oil?—A. I had a load for the Valvolene Oil Works once to Burlington, consigned to Mr. Baker, in Burlington.

Q. Baker, at Burlington?—A. Yes, sir; that is, it went
12337 from there on to cars; went to different parts of Vermont on the cars, a few barrels one place and a few barrels another.

Q. Where did you take the oil?—A. To Burlington.

Q. Where did you get the load?—A. Over at Jersey City, the Valvolene Oil Works.

Q. And you carried that cargo of oil from Jersey City on your boat up to Burlington, Vermont?—A. Yes, sir.

Q. How much was there of it?—A. About 150 tons.

Q. And that was in barrels?—A. Yes, sir.

Q. How many barrels did that make?—A. Oh, from 550 to 700; somewhere in that neighborhood; about 150 net tons.

Q. How long ago was that?—A. Well, it was around—I can't say exactly or positively; it may be six or seven years ago; somewheres in that neighborhood.

Q. Do you remember what your rate was?—A. $1.25 a net ton, at that time.

Q. Your transportation rate was $1.25 a ton?—A. Yes, sir; I worked for the Burlington Grocery Company for twelve years, carrying merchandise between here and Burlington for $1.25 a net ton up to two years ago. Two years ago I got through with that. I have not worked for them since.

Q. How large a boat did you have?—A. She is 97 feet long, 8 feet deep, and 17 feet wide; just as big as the locks.

Q. What was her capacity?—A. She will carry 150 gross tons on 4½ feet of water.

Q. What would you say, Mr. Bunce, as to whether at any time during the last twelve years petroleum oil and its products could have been shipped——A. I would be too glad——

12338 Q. During the open season in barrels——A. I would be glad to do that.

Q. From New York Harbor to Burlington?—A. I would be too glad, to-day, to-morrow or any other day, to get $1.25 a net ton for that from here to Burlington.

Q. And you have been open from here to Burlington, for cargo loads?—A. Yes; I have been open for these last two years. For twelve years I was working for the Burlington Grocery Company, but once in the twelve years I carried this load of oil for Mr. Baker up there, one cargo.

Q. Were there other boats engaged in transportation between here and Burlington?—A. Yes, sir; I have a son that is working between here and Burlington now.

Q. And during those twelve years——A. Yes, sir.

Q. Have other boats been engaged in transportation——A. Yes, sir.

Q. Between here and Vermont points?—A. Oh, yes, sir; I can name you two or three different parties that is working between here and there; that is, for different houses, you know.

Q. What is the season for water transportation between New York and Burlington?—A. Somewhere around seven months.

Q. Commencing when?—A. About the 7th of May, until around Thanksgiving.

Q. The latter part of November?—A. Somewhere in that neighborhood; yes. This year they cut us off about a month on account of the barge canal. It is closed up there now, but I speak
12339 especially of other years, it runs into December; that is, till the ice drives us out.

Cross-examination by Mr. KELLOGG:

Q. You have carried one boat load of oil in twelve years, have you?—A. Well, a full load, but previously to that I have had other barrels; of course, not every trip, but eventually—eventually, when I worked for this grocery company I used to get a few barrels, you see, of oil.

Q. In the last twelve years, I mean, you have had one load?

Mr. MILLER. He says he has carried others——

WITNESS. No; I worked for the Burlington Grocery Company for twelve years, you see.

Q. Then you were not engaged—at that time you did not take cargoes for other people?—A. No, sir.

Q. I see.—A. Only just that one cargo of oil.

Q. How long have you been running a boat for yourself?—A. About 20 years.

Q. For over 20 years?—A. Yes, sir.

Q. How many different times have you hauled oil in 20 years?—A. Full cargoes?

Q. Yes.—A. Once.

Q. How many times have you hauled it in partial cargoes?—A. That I could not say, because we used to make six or seven trips up there to Burlington.

Q. Well, you don't haul oil much, do you?—A. Well, no; because I can't get it.

Q. Why can't you get it?—A. I don't know. I could not say anything about that.

12340 Mr. MILLER. The shippers don't send it—is that the reason?

WITNESS. Why——

Q. If the rate is very much less than it is on the railroads, why don't they send it?—A. Well, that I could not answer, that part.

Q. What was this oil that you hauled—lubricating oil?—A. Kerosene oil of some kind, I don't know.

Q. You don't know whether it was lubricating oil or illuminating oil?—A. I didn't test it; no, sir. All I know is they gave me a 5-gallon can over there, and I burned it, that is all I know about it.

Q. Have you tried to get oil during this time?—A. Have I?

Q. Yes.—A. Yes; once, over here at the Valvoline Works.

Q. And you could not get any?—A. They did not have any to ship; no, sir.

12341 E. W. SCHODER, called on behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Mr. CRAWFORD:

Q. Where do you live?—A. Ithaca, New York.

Q. You are connected with Cornell University, are you not?—A. Yes, sir.

Q. In what capacity?—A. I have charge of the hydraulic laboratory there.

Q. You are a hydraulic engineer?—A. Yes, sir.

Q. Where were you graduated?—A. At the University of Washington, originally.

Q. You mean the State of Washington?—A. The State of Washington, yes, sir.

Q. Did you take a second degree?—A. Yes, sir; at Cornell.

Q. What degree?—A. Ph. D.

Q. How long have you been in charge of the hydraulic laboratory at Cornell University?—A. About 4½ years.

Q. Have you had occasion to investigate the problem of the different rates of speed at which water flows in a pipe?—A. Yes, sir.

Q. And also gas?—A. Yes, sir.

Q. Do you belong to any learned society?—A. I am an associate member of the American Society of Civil Engineers and a member of Sigma Psi.

Q. Is there an established law in hydraulics expressing the rates of flow of different parts of a column of water in a pipe?—

12342 A. Yes, sir.

Q. Will you state it generally?—A. When water flows through a straight pipe, the velocity of the water at the center of the pipe is about twice the velocity of the water at the walls of the pipe,

and the distribution of the velocity when represented graphically is similar to an elipse.

Q. You said that was in a straight pipe. Is that varied in any way if the water flows through a curved pipe?—A. The high velocity is thrown to the convex side of the pipe, in case of water flowing through a curve.

Q. And does that produce any difference in the graphic representation of the velocities?—A. Instead of being a symmetrical curve it is a distorted curve. It distorts the distribution of the velocities.

Q. Showing a greater projection of the curve at one side of the pipe than in the middle?—A. Yes, sir; it makes it lopsided, so to speak.

Q. Do you know these facts from your own investigation and experiment?—A. Yes, sir.

Q. Have you ever made any personal tests to ascertain whether coloring matter injected into a pipe of water moved, or how coloring matter injected into a pipe of water moved?—A. Yes, sir, I have.

Q. And in a general way what have your tests in that regard shown?—A. That as the flow proceeds, the extent or length of pipe throughout which the coloring matter extends increases as the flow goes on.

Q. You mean to say that the coloring matter extends
12343 through a longer proportion of the pipe?—A. Yes, sir.

Q. Do you happen to know whether that has been applied practically in the study of typhoid germs communicated to water?—A. Why, in this way: If there is any possible infection in a pipe system, although the infection starts in a concentrated way, yet it is known that it is diffused throughout the whole pipe system; and in order to purify the pipe system it is necessary to flush out the whole system. That is a matter of common experience, I think, and it is a common fear that the concentrated infection will become spread out throughout the entire system.

Q. In all of these tests what is true as to the relation of the length of the pipe through which the liquid is flowing to the extent of the contamination?—A. The longer the pipe line the greater the extent of contamination if you so choose to regard it.

Q. Or the greater the extent of the mixed body?—A. Yes, sir.

Q. That is to say, the extent of the mixed portion of the fluid bears a fairly close relation to the length of the pipe, does it?—A. Yes, sir.

Q. And as that length increases, the mixed portion of the liquid increases?—A. Yes, sir.

Q. Now, have you been present and heard Mr. Page, and Mr. Weymouth, and Mr. Vandergrift testify in this case?—A. I have.

Q. I hand you defendants' Exhibit 227 to 250, inclusive, and ask you to look at them and state whether you have seen them before.—A. Yes, sir; I have seen these before.

Q. Certain of those exhibits show graphically the results of
12344 certain tests at which you were present, do they not?—A. Yes, sir.

Q. As to those you have no doubt, I suppose, that the tests were properly conducted and the observations accurately made and graphically presented, have you?—A. I feel certain that they are so represented in the documents.

Q. Now, as to the other exhibits, illustrating the tests made by Mr. Page and Mr. Weymouth, or by one of them, have you examined the data furnished you by them, from which these blueprints were prepared?—A. I have.

Q. Now, what is your opinion as to the correctness of the methods pursued by them in their tests as testified to by them, and in the way in which they have plotted their tests in these exhibits?—A. I think they were conducted, worked up, and plotted in as careful and as accurate a method as when I was present.

Q. What do you say as to the soundness of the principles, from a scientific standpoint, on which the whole work was done?—A. I think it is very sound and in accordance with the hydraulic science.

Q. Do you agree with them in the conclusions that they have drawn, as testified to by them?—A. I do.

Q. Will you look at fig. 17, defendants' Exhibit 244, and state through what period of time, as you interpret that exhibit, the mixing of the two oils extended—that is, the oils of the different gravities?

12345 Mr. KELLOGG. Doesn't it show right on its face?

Mr. CRAWFORD. Now, Mr. Kellogg, allow me to examine this witness in my own way, won't you?

Mr. KELLOGG. Certainly, sir. I just simply asked you the question, if it did not show right on its face.

A. The mixing extended from 1.08 p. m. to 1.36 p. m.

Q. That would be a period of how many minutes?—A. 28 minutes.

Q. It has been suggested here by counsel for the Government that a considerable portion of that mixing ought to be ignored, and that the time during which the mixing can be considered is very much shorter than that. What have you to say about that?—A. It depends entirely upon the application that it is desired to make of this test.

Q. Considering it as such a test as it was intended to be. You took part in some of these tests?—A. The mixing, as I have said, extended for the 28 minutes. I think no part can be ignored unless some arbitrary standard be set up.

Q. These are tests intended to measure accurately the matter and amount of the contamination. From that standpoint what do you say as to Mr. Kellogg's suggestion?—A. I think it would lead to an entirely wrong conclusion when applied to a long pipe line.

Q. This pipe line on which the experiment here was made was testified to be about 16 miles long. What would be the tendency of the form of the curve as the pipe increased in length? I mean to say if that instead of being 16 miles was 32, other conditions being

12346 the same, how would you expect to find the slope of the curve shown in fig. 17?—A. As shown in the previous figure, according to a previous test made by Mr. Page and Mr. Weymouth

fig. 16, the sharp rise of the curve would be modified, and at the beginning of the curve, looking from left to right, the curve would tend to assume more and more that shape of fig. 16.

Q. And would you expect, as the pipe further increased in length, that that tendency would go on?—A. Yes, sir; I would expect that the sharp rise would tend to merge more and more into the easy rises, each one giving to the other, making a sloping line.

Q. So that the cutting out of the portion of the mixture at the beginning and the end of this test here, when shown for a short line of 16 miles—the cutting out of all of that, if it was applied to a very long line, would that create a wrong impression?—A. Entirely so.

Q. What do you mean to say about that?—A. I mean to say that the impression created by considering only the steep portion of the line or the rapid change in gravity (it having extended over only about three minutes) would lead to entirely wrong conclusions when applied to a longer length of line.

Q. What would you expect would be the case in regard to the upper part of the curve here, where the amount of mixture shown is relatively small, when the pipe is extended very much?—A. The upper part of the curve? I should expect that to remain about the same.

Q. Do you mean absolutely the same?—A. No; but it
12347 would tend to become stretched out through a longer period of time; but there would be no decided change except for an extreme change in length.

Q. I am not sure that I understand you.—A. As I understand it, you were speaking of the upper part of the curve.

Q. Yes. What I want to know is, if, for example, you multiply that by 10, so that you have a line or a pipe 160 miles long, what change would presumably take place in the upper part of this curve, fig. 17?

Mr. KELLOGG. If he knows, not what he presumes; if he knows what would take place.

Mr. CRAWFORD. I am asking him as an expert what, in his opinion, would take place.

A. I think it would be multiplied in length. To what extent I don't know. That would be a matter of experiment to decide.

Q. But the intermediate portion would, in your opinion, tend to a different angle, and the amount showing a considerable mixture would be increased. Is that what you mean?—A. Yes, sir. To run over the whole thing, as the pipe line gets longer, the curve, as shown in fig. 17, assumes the shape as shown in fig. 16, and when the length is long enough the decided change of the lower portion would finally reach the upper portion, and then the upper portion would commence to be affected, and a more or less uniform slope between the initial and final points would result.

Q. Now, you have listened to the testimony of Mr. Vandergrift in regard to five practical tests conducted by him on the
12348 line from Morgantown to Millway, have you not?—A. Yes, sir; I have.

Q. I hand you papers which set forth in compact form the figures relating to those experiments to which the witness testified. You also heard him testify, did you not, that in addition to those tests he had in a considerable number of cases found that where he ran oils of different gravities through the line in the course of business, through the same lines or the same pi[illegible]s in the course of business, he had observed a contamination of from 15,000 to 25,000 barrels, and that except in the single instance represented by one of the papers there, the experiment of October 10, 1907, he remembered no case where the amount of mixture was less than 15,000 barrels?—A. Yes, sir.

Q. Did you so hear him?—A. Yes, sir; I did.

Q. Now, with that testimony in mind, and with the figures which you have before you, I ask you, as an engineer, if you were tabulating these results and endeavoring to derive a rule which could be safely followed, what weight you would give to the experiment of October 10, 1907, which showed an amount of mixture of 8,112 barrels?

Mr. KELLOGG. I object to that as incompetent.

A. Considering his additional statement that separators had been used, I should place very little weight upon that, and explain the difference by the presence of separators in the line. In any event the one experiment, if averaged, would change the average of the other four very little. In ordinary engineering practice it would be regarded as an unreliable result as compared with the others.

12349 Q. And how would it be treated in making up a tabulation in ordinary engineering?—A. All the results would be given, and the conclusion that any engineer might draw would be of course his personal conclusion; but the customary rule is to give all the evidence and let other engineers decide for themselves as to the interpretation.

Q. Yes, but I ask you now how you would decide in such a case, following the practice of good engineering?

Mr. KELLOGG. That is objected to as incompetent.

A. Since only in one case out of the three where separators were used did they seem to have any effect in decreasing the contamination, I should say that as a guide the fifth experiment should be ignored entirely.

Q. Would you say that this probably was the one case out of three where the separators worked as they were expected to?—A. Yes, sir.

Q. And in two cases they did not work?—A. Yes, sir.

Q. However, even if you should include the results of the five experiments, what would the average of them all be?—A. I have not averaged them up. [Witness makes a computation.] The average of the four experiments is——

Q. I did not ask you what the average of the four was. What is the average of the five?—A. 14,986, as I make it.

Q. Practically 15,000 barrels?—A. Yes, sir.

Q. So that even taking the average, the general result would not be very greatly affected, would it?—A. No, sir.

Q. Have you computed the theoretical amount of mixture which should take place in a pipe line of the length and size testified to by Mr. Vandergrift as having been used in these tests,
12350 starting with these theoretical tests as a basis?—A. I have.

Q. Which one of the gravity tests did you take as the starting point?—A. The one at which I was present.

Q. That was fig. 17?—A. It is fig. 17.

Q. That is defendants' Exhibit 244. You took the exhibit which was least favorable to the defendants, did you?—A. Yes, sir.

Q. Have you computed what percentage of the capacity of the line used in that test the total mixture formed?—A. Yes, sir; I have.

Q. Will you state what it was?—A. 8½ per cent.

Q. Now, have you also computed the amount of mixture that would result from the different rates of speed in different pipes in this Morgantown line or certain portions of it?—A. Yes, sir.

Q. I hand you a paper which I see bears your initials. You have seen that before, have you?—A. Yes, sir.

Q. You appear to have taken the sections which are there set down, one from Laurel Hill to Three Corner Stone, one from Three Corner Stone to Watson, one from Keyser Ridge to Deal Farm, one from Deal Farm to Mount Savage. The mileage which you have stated there is the same as that which was testified to here by Mr. Vandergrift, is it not?—A. Yes, sir.

Q. And in estimating the amount of the mixture, did you take into account the number and size of the pipes as he testified to them in those sections?—A. Yes, sir; I did.

Q. What mixture, theoretically, did you find would result
12351 in the section from Laurel Hill to Three Corner Stone where there are two 8-inch pipes and one 6-inch pipe?—A. 1,959 barrels of mixture.

Q. Just explain how that should come about, please—what you mean by that.—A. There are here two 8-inch and one 6-inch pipes paralleling one another. When the line of demarcation between the two oils, one following the other, had reached the end of the two 8-inch lines, it would have failed to reach the end of the 6-inch line by an amount computed by the ordinary formula for the flow of oil through pipes, and through the length——

Q. Can you tell how much that is?—A. Well, it would amount to this——

Q. Can you give it in mileage or feet?—A. No; not from this paper. It would amount to 1,959 barrels—that is, the contents of that portion of the line—of the 6-inch line—would be 1,959 barrels.

Q. That is, the portion of the 6-inch line represented by the distance from the line of demarcation to the end of the 6-inch pipe, at the moment when the line of demarcation in the two 8-inch pipes had reached the ends of them—the amount of oil sufficient to fill that part of the 6-inch line would be 1,959 barrels?—A. Yes, sir.

Q. Now, will you go on and explain the other three computations there?—A. In the same way in the next section, the flow in the one

6-inch line would have lagged behind the flow in the one 8-inch line to such an extent that the contents of the 6-inch line ahead of
12352 the line of demarcation and up to the point of junction with the 8-inch line would contain 126 barrels. In the next one, with two 6-inch and one 8-inch, the two 6-inch lines would lag behind to an amount corresponding to 788 barrels; and in the next section, Deal Farm to Mount Savage, the one 6-inch line, or the flow in the one 6-inch line, would lag behind the flow in the two 8-inch lines to an extent corresponding to 127 barrels.

Q. Now, let me understand. Do you mean to testify in these separate cases that these different amounts of barrels of oil would be the contents of that part of the 6-inch pipe which was still occupied by the oil which was in front, or is this the amount of the resulting mixture when the oils come together at the end of the division, whatever it is?—A. No; this is the amount of the resulting mixture. My statement should have been modified to this extent, that these figures represent, in addition to the contents of the smaller line, the amount of oil that would have poured out from the larger lines at the point of junction; in other words, the entire mixture.

Q. That is, the amount that would have poured out up to the time when the line of demarcation in the 6-inch pipe reached the end?—A. Yes, sir.

Q. So that these figures represent your computation of the resulting mixture from the conditions there?—A. Yes, sir; they do.

Q. That is what should theoretically take place?—A. Yes, sir.

Q. Now, these are only small portions of the entire line
12353 from Morgantown to Millway. Why have you not taken into account other portions of that line?—A. Theoretically it is assumed that when a number of pipes of nominally the same size parallel one another the flow proceeds through them, through the different ones, at the same rates.

Q. And it appears in evidence, does it not, that all the other sections of the pipe line consist of a certain number or different numbers of pipes of the same caliber?—A. Yes, sir.

Q. That is, section by section, they are of uniform caliber?—A. Yes, sir.

Q. And therefore you took only account of those where the calibers were different?—A. Yes, sir.

Q. You have heard Mr. Vandergrift testify here in regard to the paraffining of the pipes, have you not?—A. Yes, sir.

Q. And to the effect that pipes originally of the same caliber would paraffine up at different rates, so that the actual interior diameter of one would get less than that of others?—A. Yes, sir.

Q. You also heard him testify in regard to one of these tests that the column of oil in one or other of the pipes proceeded more slowly than that in others, did you not?—A. Yes, sir.

Q. Now, bearing that testimony in mind, would you say that in actual practice those 3,000 barrels would represent all the mixture

that would result from the difference in flow through parallel
12354 pipes, or would it have to be increased?—A. It would have to be increased. That is to say, this would be the lowest possible amount.

Q. But you have proceeded here upon the theory that the pipes were clean and that there was no difference in the progress except that arising from different calibres?—A. Yes, sir; and not only that they were clean, but that they had the same discharging capacity.

Q. Did you then, starting with fig. 17, and on the basis of the 8½ per cent of contaminated oil there shown, figure out theoretically what the amount of contamination due to the mixture of oils in the same pipes would be in this Morgantown line?—A. I did.

Mr. CRAWFORD. I offer in evidence the tabulation referred to by the witness, marked defendants' Exhibit 253.

Mr. KELLOGG. That is objected to as incompetent and immaterial.

Q. And what did you make that amount to be theoretically?—A. The mixture, on the basis of that computation, was 14,800 barrels.

Q. What was the total amount of mixture from the other cause which you found to be theoretically true, as shown by defendants' Exhibit 253?—A. 3,000 barrels.

Q. So that theoretically the total mixture in this pipe should have been what?—A. 17,800 barrels.

Q. That is, in the course of the progress of a batch of oil through the whole length of the pipe?—A. Yes, sir.

Q. Have you tabulated the theoretical results which you have thus computed, with the actual results of the first four tests as testified to by Mr. Vandergrift?—A. Yes, sir; I have.

12355 (Paper marked defendants' Exhibit 254.)

Q. I hand you defendants' Exhibit 254. Does that show the tabulation to which you refer?—A. It does.

Q. The first test, started September 13, showed by actual result 15,748 barrels. Did you figure out what percentage that was of the batch in question?—A. 10½ per cent.

Q. And your theoretical amount of mixture being 17,800, what percentage was that of the batch?—A. 11.4 per cent.

Q. The batch was, as I see, 155,605 barrels, was it not?—A. Yes, sir.

Q. Now, in like manner, in the test run October 20, 1907, which amounted, according to Mr. Vandergrift's testimony, to 140,222 barrels, what did you find the percentage of the batch, the actual amount of mixture, was?—A. 16,872 barrels.

Q. And what percentage?—A. 12 per cent of the batch.

Q. What per cent of that batch did you find your theoretical computed amount was?—A. 12.7 per cent.

Q. In the first of those tests the difference between the theoretical amount and the actual amount by test was how much?—A. 2,052 barrels.

Q. And expressed in percentage?—A. 1.3 per cent of the batch.

Q. And in the second of those which you testified to, the test of October 20, what was the actual difference in barrels?—A. 928 barrels.

Q. And in per cent?—A. .66.

Q. 66/100ths of 1 per cent?—A. Yes, sir.

Q. Now, those were the two tests that were made without
12356 separators, were they not, according to the testimony of Mr. Vandergrift?—A. Yes, sir.

Q. Now, similarly, will you state the relation of the figures in the other two tests, the one of September 28 first?—A. In the test of September 28 to October 3 the actual test results gave 17,044 barrels, or 21.3 per cent of the batch.

Q. What was the total of the batch?—A. The total of that batch was 79,698 barrels.

Q. And how about the theoretical?—A. The calculated amount, 17,800 barrels, is 22.3 per cent of the batch.

Q. And how much is the difference?—A. A difference of 756 barrels, or 94/100ths of 1 per cent of the batch. In the test of November 6 to 11 the actual test results gave a contamination of 17,153 barrels, 13 per cent of the batch.

Q. Which was what?—A. 131,024 barrels. The calculated amount, 17,800 barrels, is 13.6 per cent of the batch. The difference is 647 barrels, or 49/100ths of 1 per cent of the batch.

Mr. CRAWFORD. I offer in evidence defendants' Exhibit 254.

Mr. KELLOGG. That is objected to as incompetent.

Mr. CRAWFORD. I offer in evidence defendants' Exhibits 255–A and 255–B, being the tabulation of the figures of the five tests testified to by Mr. Vandergrift and being the actual tabulations which he had before him while testifying, and to which his testimony referred.

Mr. KELLOGG. I would like to have Mr. Vandergrift return in the morning.

The EXAMINER. Mr. Vandergrift, you will return to-morrow morning.

(An adjournment was then taken until Wednesday, November 18, 1908, at 10.30 o'clock a. m.)

12357 ROOM 515, CUSTOM-HOUSE, NEW YORK CITY,
Wednesday, November 18, 1908—10.30 a. m.

The hearing was resumed before the special examiner, Hon. Franklin Ferriss, at the above time and place.

Present: On behalf of the petitioner, Mr. Frank B. Kellogg, Mr. Charles B. Morrison, Mr. J. Harwood Graves. On behalf of the defendants, Mr. John S. Miller, Mr. Chauncey W. Martyn, Mr. F. L. Crawford, Mr. W. Cleveland Runyon.

E. W. SCHODER, recalled and his direct examination resumed, testified as follows:

By Mr. CRAWFORD:

Q. Professor Schoder, I hand you defendants' Exhibit 254. In calculating the amount of mixture which should result in the line

used for the Morgantown-Millway tests, as testified to by Mr. Vandergrift, you took into account the entire mixture which was shown in the tests of Mr. Weymouth and Mr. Page up to the actual gravity of the oil which was being used in the tests, did you not, in the tests of Weymouth and Page?—A. That was the method I pursued, except that I used the tests at which I personally was present.

Q. Yes, I so remember; but the point is that you took into account the entire mixture, flush up to the gravity of the batch of oil in use?—A. Yes, sir; that is correct.

Q. You have heard the testimony here, and I think examined the exhibits, showing that in the practical tests made over the Morgantown-Millway line the cut was made at something
12358 more than a degree below the average gravity of the batch of the higher-gravity oil?—A. Yes, sir.

Q. And the figures which are given in the exhibits as to the amount of contaminated oil in the practical tests are made upon that basis?—A. Yes, sir.

Q. If, in the practical tests, the total amount of mixture were taken into account, up to the exact average gravity of the batch of the high-gravity oil, what effect, in your judgment, would that have upon the amount of the mixture shown?—A. Why, it would increase the actual test results above the calculated results in every case.

Q. Well, it would increase the actual results above those which are given here by Mr. Vandergrift, would it not?—A. Yes, sir.

Q. Is there any reason which would account, in your judgment, for the results of the actual tests being in excess of your calculated results?—A. I think there is.

Q. Will you state it?—A. In calculating we could take into account only two causes that are undoubtedly always existent; but there are numerous other causes in pumping that would tend to increase the amount of mixing, and those we cannot calculate. The best that we can do is to estimate the probable minimum amount.

Q. How about the difference in paraffining, as testified to by Mr. Vandergrift, and the effects of the retardation of scrapers?—A. All those things, together with the pumping operations, would tend to increase the mixing above the calculated amounts.

12359 Q. Those are causes which you could not take into account in your calculations?—A. No, sir; because they do not admit of exact calculation.

Q. Now, Professor Schoder, in view of your study of the science of hydraulics; of your own experiments in regard to the flow of liquids in pipes; of the special experiments on the flow of oils in which you took part with Messrs. Weymouth and Page, and also those carried on by them, the data of which you have examined, and in view of the results of the experiments testified to by Mr. Vandergrift as carried on practically over the Morgantown-Millway line, what is your opinion as to the reliability of the methods employed by these witnesses for computing the probable minimum contamination or mixing of oils in a pipe line of the kind and construction

described by Mr. Vandergrift, when a batch of relatively high-gravity oil is pumped between two batches of relatively low-gravity oil, taking into account the methods and standards used by competent engineers in the general practice of hydraulic engineering, and engineering involving the conveyance of liquids through pipes?

Mr. KELLOGG. That is objected to as incompetent and immaterial.

A. I think that the results of such calculations are reliable and as accurate as most estimates of the flow of liquids in the general practice of hydraulic engineering.

Q. I asked you more particularly in relation to the methods that were used. [To the reporter.] Would you mind reading the question to Professor Schoder?

The reporter read the question.

12360 A. I think the methods employed are quite reliable.

Q. And in your opinion, taking into account all the matters stated in the previous question, are the methods referred to approved, practical, and reliable methods from the standpoint of competent engineers?

Mr. KELLOGG. That is objected to as incompetent and immaterial.

A. I think they are.

Q. Now, taking into account all the matters in the last three previous questions, in your judgment are the results arrived at by Messrs. Weymouth, Page, and yourself in the tests in which they and you took part, and also in the tests which Mr. Vandergrift has described, reliable?

Mr. KELLOGG. Same objection.

A. Yes, sir; aside from the occasional chance favorable action of scrapers as separators.

Q. In any particular tests such as those described, in your opinion, would the methods employed produce accurate results for that particular batch of oils?

Mr. KELLOGG. Same objection.

A. Accurate as to the minimum amount; yes, sir.

Q. Taking into account all the matters referred to in the previous questions, what, in your judgment, is the minimum amount of mixture of oils such as those described in the questions in a pipe line of the length, size, and construction of that used between Morgantown and Millway in the experiments testified to by Mr. Vandergrift?

Mr. KELLOGG. That is objected to as incompetent and immaterial.

12361 A. 17,800 barrels.

Cross-examination by Mr. KELLOGG:

Q. Now, Professor, I believe you say that the oil in the centre of the pipe moves substantially twice as fast as the oil on the outer rim of the pipe?—A. No, sir; I do not say that.

Q. How much faster, in the tests you made?—A. The oil in the centre of the pipe moves about 30 per cent faster than that at the wall of the pipe.

Q. What was it you said moved twice as fast—water?—A. The flow of water in a straight pipe.

Q. Now, the oil in the centre of the pipe—oil of what gravity?—A. You mean in reference to twice as fast——

Q. Yes.—A. Or in reference to 30 per cent?

Q. Yes.—A. Which?

Q. With reference to the 30 per cent.—A. The gravities to which that statement would specifically apply are those in the tests in the exhibits made.

Q. Do you refer to Exhibit 239?—A. The gravity in that test was 36.4, as stated on the exhibit.

Q. How much faster does the oil referred to in that exhibit move in the centre than on the outer rim?—A. Was that Fig. 12–A?

Q. 12–A.—A. Something over 30 per cent.

Q. Where do you figure the outer rim? According to this it is nearly 100 per cent, according to this diagram you have drawn,

12362 taking the top of it.—A. Well, I was speaking in a general way about a point near the wall, not going——

Q. Well, right at the wall.—A. Right at the top wall, taking the top wall, the velocity is represented by 2 feet, and taking the extreme maximum velocity, it is almost 3.9 feet. That would be pretty close up to 100 per cent.

Q. Yes, nearly twice as fast then?—A. Yes.

Q. And take it near the outer wall, quite a large amount of the oil would move 30 per cent faster?—A. Yes, sir.

Q. If that is the case, then in a pipe line 30 miles long, oil which had traveled the 30 miles, when the oil in the centre had reached the 30 miles, the oil on the very outer rim would have reached 15 miles, wouldn't it?—A. No, sir.

Q. Why not?—A. Because in the flow of liquids through pipes each particle does not move straight ahead parallel to the axis of the pipe, but there is a constant eddying motion going on.

Q. That is what I thought. The result is from these diagrams such as you have made here, showing the velocity on the outer rim and in the centre, you can't tell how much mixture there would be in 30 or 40 or 60 or 100 miles' run, can you?—A. We do not pretend to know from those diagrams.

Q. You can't tell anything about it, can you?—A. Not from the diagram to which you have just referred.

Q. And the diagrams would not help you to determine the law of the degree to which the mixture would increase with the distance, would they?—A. Not those diagrams of the traverses.

Q. The fact is that the oil is being forced through a

12363 pipe has rolling motions that destroy these rules of velocity, do they not?—A. No, sir.

Q. Why not—I mean destroy the direct continuance of the particles of oil?—A. Yes, sir.

Q. The oil from the outer edge is carried into the centre, and from the center to the outer edge?—A. Yes, sir, there is a constant——

Q. And the result is that the mixture does not continue in proportion to the rapidity of the motion of the oil on the outer edge and the centre?—A. Probably not.

Q. You know it does not, don't you?—A. I have never made an exact attempt to tie together the results of the Pitot tube traverses with the results of the actual mixing tests.

Q. No, you never have undertaken to determine how much mixture there would be between two grades of oil after it had traveled 100 or 200 miles, have you?—A. Except the investigation already testified to.

Q. That is, you never have made any actual tests to know how much mixture there would be between two grades of oil pumped through pipes for 100 or 150 miles, have you?—A. I personally have not done so.

Q. The only tests you made were these distances here, two of 16 miles and one of 24?—A. The tests in which I participated—in the actual tests—I have made the investigation, however, comparing the results of the Morgantown-Millway tests with the more precise short-distance tests.

Q. Do you pretend to say that the amount of mixture will
12364 increase in exact proportion to the distance traveled?—A. Looping effect aside, practically so.

Q. How do you know?—A. I know that from the basis of investigations to which I have testified here, the precise short-distance tests, and their comparison with the tests made on the 210 miles of the Morgantown-Millway line, and from the nature of mixing of fluids generally.

Q. You never made any actual tests to find out whether the mixture of oils continues in a single pipe in proportion to the distance traveled, have you?—A. Except these already testified to.

Q. You never made any other tests?—A. No, sir; not besides those that have been mentioned.

Q. Now, these do not show any such thing, do they?—A. I think they do.

Q. There is not any test in a single pipe there, is there, for different distances?—A. There are two tests made in a single pipe for different distances.

Q. Where are they? They are different pipes, aren't they?—A. Yes, sir.

Q. Different sizes?—A. I don't recall whether they are different sizes or not. That would be immaterial, however.

Q. Different kinds of oil, weren't they?—A. I am not certain about that.

Mr. CRAWFORD. The same size pipe. They are both so stated.

WITNESS. Fig. 17.

Mr. CRAWFORD. Mr. Weymouth testified that the pipe used in Fig. 16 was the 6-inch pipe, as well as that in Fig. 17?

WITNESS. Yes, they are both made at the same place.

12365 Mr. CRAWFORD. Now, I may be mistaken in saying that he testified to that. I would like to ask Mr. Weymouth a question.

Mr. KELLOGG. Well, I will ask this man questions if you please. Mr. Weymouth can take his turn when he gets on the stand.

Q. Do you know that those tests were made in the same pipes—the same sized pipe?—A. Yes, sir.

Q. You do? But they were made with different grades of oil and at different times, were they not?—A. Made at different times. I will look up the question of the grades of oil presently.

Q. One was in warm weather and the other was in cold weather, wasn't it?—A. Yes, sir.

Q. The temperature makes a good deal of difference, doesn't it?—A. It probably does, makes a great deal.

Q. You never have made experiments on a single pipe under exactly the same conditions, to know whether the mixture increases with the distance traveled?—A. No, sir.

Q. And all you know about it is calculating it from certain rules which you rely upon?—A. Yes, sir.

Q. Well, now, what rules?—A. In the first place, we know that the external effects or aspects of the flow of oil through pipes are similar to those of the flow of water through pipes, and I have been experimenting——

Q. Now, wait a minute right there. Does the oil mix as easily as the water?—A. No, sir.

Q. Then it would not mix as much as water would?—A. No, sir.

Q. Why?—A. It is more viscous.

12366 Q. Now, isn't there a difference between the mixture of two different gravities and the mixture of two batches of oil of the same gravity?—A. Yes, sir, I should expect so.

Q. What is the difference? What effect would that have?—A. I don't know precisely.

Q. Then, if you don't know, you don't know whether there is a difference or not, do you, in the effect of the mixture?—A. I said in my judgment there would be a difference.

Q. Now, if a high-gravity oil comes in contact with a low-gravity oil (Baumé test) there would tend in a short time to be a wall of oil between the two mixed up, which would be substantially of uniform gravity, wouldn't it?—A. Are you referring to——

Q. Intermediate between the two?—A. Are you referring to a uniformity of gravity in the long length of the pipe or across the pipe?

Q. Uniform gravity in the little space between the two kinds of oil.—A. Oils mix freely with one another.

Q. Now, when you bring oil of 45 gravity in contact with oil of 33 gravity, they tend to mix more right at the point of connection than two oils of exactly the same gravity, do they not?—A. That would depend upon the relative viscosities.

Q. You don't know whether that is true or not, then?—A. I think your statement is not generally true.

Q. You think not? All right. Then the mixture of a small amount of oil where they came together would tend to make that small mixture nearly the same gravity after a little travel, wouldn't it?—A. Of a uniform gravity, yes, sir.

12367 Q. And that would act as a sort of a wall between the two amounts of oil or batches of oil and tend to prevent further mixture, wouldn't it?—A. No, sir.

Q. How do you know it would not?—A. Because oils mingle freely. There is a constant eddying going on, and the mixing extends throughout the entire length of pipe line.

Q. But the testimony shows it does not extend throughout the entire length of the pipe line?—A. I mean as the line or space of demarcation between the oils proceeds through the pipe line.

Q. Now, it appears here that where the light-gravity oil follows the heavy, there is more mixture than where the heavy follows the light. Why is that?—A. Heavy oil may be regarded as quite viscous or sticky. It is quite viscous or sticky and acts as a sort of a plug; but when a heavy oil has been flowing through a pipe—a heavy viscous oil, and light oil follows it—not only is there this mixing going on continually, but the heavy oil tends to stick to the sides of the pipe, and the light oil must wash that heavy oil out.

Q. The light oil tends to dissolve the heavy, doesn't it?—A. Yes, sir.

Q. Then where the oils come together, with a high-gravity oil and a low-gravity oil, the low-gravity oil tends to dissolve the heavy gravity oil and mix them together, doesn't it?—A. Yes, sir.

12368 Q. And therefore it tends to make, in the centre between the two, a body of oil of uniform gravity, doesn't it?—A. Yes, sir.

Q. The uniform gravity does not mix as easily as two different gravities?—A. I have not said that.

Q. Isn't it true?—A. The eddying goes on continually.

Q. Isn't it true that a light-gravity oil and a heavy-gravity oil will dissolve and mix easier than two oils of the same gravity?—A. No, sir.

Q. It isn't true?—A. Not generally true.

Q. The very effect of the dissolution would make it so, wouldn't it?—A. A light oil would mingle much more freely with itself than a light oil with a heavy oil, or a heavy oil with itself.

Q. A light oil and a heavy oil will mingle much more easily than two heavy oils, won't they?—A. I think so.

Q. And much more easily than two light oils of the same gravity?—A. No, sir.

Q. Now, having in the centre between the two a body of oil that is of uniform gravity, between the high-gravity and the low-gravity, tends to prevent mixture to some extent, doesn't it?—A. Taken by itself the reason might be worked up in that way, but you must re-

member there is a constant eddying going on in the flow of oil through pipes.

Q. But you don't know anything about the exact effect of that eddying, do you——A. Except as these tests have shown.

Q. Except that it tends to prevent mixture?—A. I don't know that.

Q. You don't know that it does not?—A. I think I do.

12369 Q. Well, it must tend to prevent mixture or reduce the mixture, because if the particles of oil flowed in a straight line you would practically have your entire pipe line mixed in 30 or 40 miles, wouldn't you?—A. If the oil flowed in a straight line it would depend upon the relative velocities of the centre and the wall to the exact length. There would not be a mixing in that case.

Q. But when it reached the receptacle and poured into it, it would mix all up, wouldn't it?—A. Yes, sir.

Q. Now, there is something that prevents that. Will you tell me what it is?—A. Why, it is simply the fact that one oil is continually washing the other out, and the one oil to an extent acts as a plug on another, and so it does not extend throughout the whole pipe line.

The EXAMINER. Mr. Kellogg, you speak of light oils and heavy oils and oils of low gravity and different gravity. What relation is there between light oil and the gravity and heavy oil and the gravity?

Mr. KELLOGG. We call it heavy and light.

Mr. CRAWFORD. High gravity is light and low gravity is heavy, under the terms here. It is not specific gravity.

Mr. KELLOGG. No.

Mr. CRAWFORD. It is a different standard. One of the witnesses explained it—what is called the Baumé standard.

Q. Do you know of any recognized law, published in any authentic publication, that the degree of mixture will increase in proportion to the distance traveled, between two fluids in a pipe?—A. Not in that form, no.

12370 Q. That is simply your opinion?—A. I have carried on experiments of my own, besides these experiments mentioned, that indicate that that is the case.

Q. You never have made any actual tests after oils have traveled 100 or 200 miles to see what the effect is, have you?—A. I have made investigation into these tests.

Q. Made by these men here, which you have testified to?—A. Yes.

Q. And that is all, isn't it?—A. Yes, sir; aside from the tests on water to which I have testified.

Q. And those under complicated conditions and in one case the pipe was plugged up with a scraper, and perhaps plugged up at another place. Isn't that true?—A. Possibly so.

Q. Now let me show you fig. 17. Will you turn to it there?—A. Yes, sir; I have it.

Q. There was a case where oil of 45.7 degree of gravity was following an oil of 35.4 degrees of gravity, wasn't it?—A. Yes, sir.

Q. In other words, the mixture would be greater than though the 35.4 was following the 45.7?—A. Yes, sir.

Q. So that is a case where the mixture would be the greatest between those two grades of oil?—A. Yes, sir.

Q. All right. Now, you figured that the mixture there would be 8½ per cent, didn't you?—A. Yes, sir.

Q. You took the points from 1 o'clock and 8 minutes to 1 o'clock and 36 minutes, didn't you?—A. Yes, sir.

Q. That is, you took the entire time that there was any degree of mixture whatever?—A. I did.

Q. However slight?—A. Yes, sir.

12371 Q. Now you do not pretend to say that a slight degree of mixture cuts any figure whatever in the commercial quality of the oil, do you?—A. I am not qualified to speak on that at all. I think a very slight mixture has no effect.

Q. Assuming then that a degree of mixture which reduced the gravity of the 45 oil not more than ¾ of a degree was entirely immaterial, and the other mixture was the only one that was material, how much time was consumed in the passage of oil that was mixed?

Mr. CRAWFORD. Just a moment. I object to that question as involving assumptions that have not been proved in the case.

Q. Go ahead and answer.—A. Referring now to the particular test represented in fig. 17.

Q. Yes, sir.—A. Well, if we take ¾ of a degree at each end, there would be about a 2-minute interval.

Q. About a 2-minute interval?—A. Yes, sir; instead of 28 minutes, taking ¾ of a degree at each end.

Q. Let me see if you are correct about that. Aren't you mistaken? Isn't it about 5 minutes—¾ of a degree at each end.

Mr. DURAND. Take a straightedge and run it up there and you can see.

WITNESS. Yes, you are correct. This scale has two of these intervals. It would be 5 minutes.

Q. The contamination then on the practical basis which I name would be ⅛?

Mr. DURAND. ⅛.

12372 Q. The amount of the contamination then would be between ⅛ and ⅛ as much. What would be the percentage, then, of contamination?—A. The percentage then would be between ⅛ and ⅛ of 8½ per cent.

Q. Well, figure it out approximately.—A. ⅛ of 8½ per cent is about $1\frac{7}{10}$ per cent.

Q. Call it 2 per cent, to be liberal.—A. All right.

Q. Then that would make a contamination in that 16 miles of how many barrels of oil?—A. I do not have the figure right before me.

Q. It was flowing at the rate of 538 barrels per hour, on which you made your calculation.—A. May I ask a question of Mr. Weymouth regarding the number of barrels in one mile of 6-inch pipe?

Mr. KELLOGG. Yes, I have no objection.

WITNESS. Have you the figures, Mr. Page, of how many barrels in one mile of 6-inch pipe?

Mr. PAGE. 184.

Q. Then that would make a contamination in that 16 miles of how many barrels of oil?—A. About 59 barrels.

Q. 59 barrels.

Mr. CRAWFORD. That is figuring 538 barrels per hour?

WITNESS. 184 barrels per mile of 6-inch pipe.

Mr. CRAWFORD. At the rate of 538 barrels an hour?

WITNESS. No, I was simply assuming 2 per cent of the line capacity.

Q. It would be 59 barrels?—A. That is what I make it.

12373 Mr. CRAWFORD. Have you taken into account the rate of flow there?

WITNESS. No, sir.

Mr. CRAWFORD. Would not that make a difference? Does not that bear upon the question?

WITNESS. Well, we were working upon the line capacity basis. Rate of pumping makes no difference.

Q. You were using the same velocity that you figured your 8½ per cent on?—A. Yes, sir.

Q. That is what I thought. With your computations, velocity does not have anything to do with it?—A. No, sir.

Q. It does not make any difference whether the oil is going at one rate or another?—A. No, sir; as long as it is going at all.

Q. Does that make a difference?—A. No, sir.

Q. You are sure of that?—A. Yes, sir.

Q. Velocity does not make any difference with the amount of whirling motion?—A. It makes a difference in the amount of whirling motion; but while the whirling motion is reduced, the time it has to whirl in is increased.

Q. According to your testimony, as I understood yesterday, you thought the 8½ per cent of mixture would apply to whatever amount of oil was run through the pipe, I mean whatever distance the oil would run?—A. Yes, sir.

Q. Then the 2 per cent would apply in the same way, wouldn't it, on this basis?—A. If the 2 per cent were correct, it would apply in the same way.

12374 Q. Yes. That is the 2 per cent was the only really contaminating oil of any commercial importance you mean?—A. No, sir.

Q. Why not? According to this diagram, if ¾ of a degree of contamination does not cut any figure, and is not a contamination that affects the commercial value of the oil, then 2 per cent is the only contamination shown in that test, isn't it?

Mr. CRAWFORD. For 16 miles.

A. Not when this test is applied to a longer distance.

Q. Why not? If the 8½ per cent would apply to a long distance, why would not the 2 per cent?—A. Because 8½ per cent takes into ac-

count all the contamination. When it is applied to a longer distance, the result given is the total contamination. The question of the cutting in the longer line is another proposition.

Q. You don't know whether it would or not, do you?—A. Why, we have these tests before us, the Morgantown-Millway test, to answer that.

Q. Those tests were made under entirely different conditions weren't they?—A. Why, the general conditions were the same.

Q. In what respect were they the same?—A. The flow of oil through pipes.

Q. Under different conditions as to the number of pipes, the size of pipes, the distance traveled, and also whether over mountains or hills, and various other conditions, including the use of scrapers. Is not that true?—A. We have taken account of the factor, where the pipes are of different sizes, in the calculation. That is ordi-
12375 nary straight oil hydraulics. If I might make an analogy, you are saying something equivalent to this; you are saying that in a length, we will say, of 1 mile, 1 foot cuts very little figure, therefore a distance of 6 inches would cut very little figure on a foot rule, which is not true at all. If we are going to use a foot rule to measure a distance of 1 mile, you must be very precise in the measurement of the foot rule.

Q. Then, if 2 per cent of the oil would be contaminated in 16 miles, how much would be in 32 miles—contaminated to the degree I mentioned?—A. It would take a test to show that precisely.

Q. That is what I thought; and 48 miles, it would take a test to show that, wouldn't it?—A. Yes, sir.

Q. And 100 miles, it would take a test to show that?—A. Yes, sir.

Q. You don't know that, do you?—A. 210 miles, it would take another test, and that we have before us.

Q. You have it under different conditions than a continued pipe of the same size, have you not?—A. In a hydraulic sense, as far as this kind of mixing goes, we have exactly the same condition, only multiplied many times.

Q. Do you pretend to say that the 210 miles over the Millway division, where the gentlemen swore it was the most difficult division they had, and where the mixture would be greater than on their other divisions, is a fair test of a line of pipe extending from western Pennsylvania to New York, all of one size?

12376 Mr. CRAWFORD. One moment. The witnesses did not swear to that at all.

Mr. KELLOGG. Let him answer.

Mr. CRAWFORD. I object to the question, because it misstates the evidence.

Q. Do you pretend to say that?—A. No; I do not pretend to say that.

Q. Certainly not. Now, it is an easy matter, isn't it, to actually test how much these oils do mix as a commercial proposition, where

they are being transported every day over these lines for a period of years?—A. I should think so.

Q. Don't you think therefore, rather than to call an expert as to what might happen, that the easiest way to determine is just what has happened in the years past when they have been transporting oil?—A. I think that has been determined in this case.

Q. Very well. You made one test for the use of this case, that is all. Don't you think it would be better to determine exactly what has happened in the years that they have been transporting oil between Pennsylvania, Illinois, Kansas, and New York, by all of the pipe lines?—A. Are you asking me as a scientist?

Q. Yes.—A. I think, as a scientific proposition, the more evidence we have the better it is.

Q. If they keep the figures showing the amount of oil transported and the amount of contamination, that would demonstrate it, wouldn't it?—A. Well, hardly, because——

Q. You think your speculations are better than the actual
12377 demonstration of the oil transported, do you?—A. Mine could hardly be called speculations, I think. I am experimenting constantly with the flow of water, because the water flow is just in the same way that it has flowed in city water works and in long distance water supplies all the time; yet in those water supplies, while tests could be made, as a matter of fact engineers do not make them. Engineers are too busy doing other things, and it needs a man with leisure and the scientific inclinations to make the precise tests upon which the engineers rely.

Q. You don't suppose these men have been transporting oils of different grades for years and don't know how much contamination took place as a commercial proposition, do you?

Mr. CRAWFORD. I object to the question as incompetent as far as this witness's knowledge goes.

A. Why, I believe that no precise tests have been made before this time on this question. I think in a general way it was known.

Q. You have made no precise tests either, have you, except this one that you speak of?—A. We made a series of tests. A series of tests were made.

Q. Have you ever made any precise tests except these you have testified to?—A. No, sir.

Q. Then that is the extent of your knowledge, except that you figure it out, isn't it?—A. Yes, sir; and my general knowledge of hydraulics.

Q. That is what I thought. Now, do you know, as a matter of fact,
that after traveling 32 miles instead of 16 miles the actual
12378 contamination on the basis that I stated would be greater than 2 per cent?—A. Yes, sir; I do.

Q. How do you know it?—A. I know it as a matter of scientific fact, based on these experiments, and my general hydraulic knowledge.

Q. Based on the experiments you have testified to there?—A. Yes,

Q. In this oil?—A. Yes, sir.

Q. Over the Millway division?—A. No, sir; these tests, the precise tests in the neighborhood of Kane, Pennsylvania.

Q. Which ones?—A. I personally participated in the tests that have been mentioned, test 17 and those in May, 1908.

Q. Give the number.—A. Fig. 17.

Q. What other figures?—A. Figs. 18 and 19.

Q. They are not on mixture at all. I am talking about mixture.—A. The only mixture test in which I personally participated was the one shown in fig. 17.

Q. Assuming that you participated in 15 and 16 as well as 17, those are the only mixture tests that were made in a scientific manner, are they not, that you know of?—A. It depends upon what you call scientific.

Q. Where you figured it out as you have explained it here?—A. We had short lengths to deal with, and had to be much more precise relatively than, for instance, the tests in the Morgantown-Millway division. Relatively I think our tests were not much more precise than those on the Morgantown-Millway lines.

Q. Is there anything in these three tests that shows that that 2 per cent would not be 2 per cent at the end of 32 miles?—
12379 A. I think there is an indication that the 2 per cent would be modified in the comparison of figures 15 and 16.

Q. Why?—A. Fig. 16 was made on a longer length of pipe line, and while there was some change in viscosity, yet the results indicate the gradual stretching out of the line of the space of division between the two oils in that longer length.

Q. That might be wholly due to the change in viscosity, might it not, as far as you know?—A. Possibly.

Q. And the distance had nothing to do with it?—A. I have taken these tests and compared them in making my general statement, with the tests on the 210 miles. As I have said several times, entirely erroneous conclusions might be drawn if these tests were considered by themselves, without open eyes.

Q. And did you not make the tests on the Millway line——A. No, sir.

Q. Nor see them?—A. No, sir.

Q. And you only know what the officials here of the Standard Oil testified to?—A. Yes, sir.

Q. Have you examined the details of them?—A. Yes, sir.

Q. Those details that have been produced here in court?—A. I think they are the same ones, are they not?

Q. (Handing witness paper.) There is one of them.

Mr. CRAWFORD. What one it that?

WITNESS. September 13, 1907. Yes, I have examined those.

Mr. CRAWFORD. You have taken those into account in what you have testified, have you?

WITNESS. Yes, sir.

12380 Q. You don't know, then, that as a commercial proposition it is not entirely practicable to transport different grades of il in pipe lines, one following the other, do you?

Mr. CRAWFORD. Wait a moment. Don't answer that. The ques-ion is objected to on the ground of its referring to a commercial roposition, since the witness has testified that he has no knowledge hatever of the commercial side of the matter.

Q. You don't, do you?—A. I have no knowledge of the commercial spects of the case.

Q. You do not know, then, but what it is entirely practicable to do hat, and that the amount of mixture would be practically immate-rial?

Mr. CRAWFORD. Same objection.

A. My personal idea is that the amount of mixture is far from immaterial, if mixture is at all objectionable.

Q. Would you say that 2 per cent mixture would be an insuper-able objection to such transportation as a practical business?

Mr. CRAWFORD. Wait a moment. That is objected to as involving assumptions not at all proved, nor in accordance with the evidence.

A. I don't know whether 2 per cent mixture would be material or not as a commercial proposition.

Q. Do you know that oil is transported every day through pipe lines, one grade following another, and that for all practical purposes they are kept separate?—A. As a matter of conversation and

12381 general knowledge I know that large batches are kept sepa-rate, with an intermediate division of mixed oil.

Q. And that that transportation is going on as a practical commer-cial proposition all over the country. Is that not true?—A. In the manner that I have stated; yes, sir.

Q. If that were not practicable as a business proposition, it would not be very apt to be done, would it?—A. I presume not.

Q. So that, in spite of your theories, it is actually done, isn't it, in this country?—A. What is actually done?

Q. The transportation of different grades of oil through the same pipes, one following the other?—A. Yes, sir.

Q. And kept separate?—A. Not kept separate.

Q. The great body of it is kept separate, isn't it?—A. When the batches are large enough; yes, sir.

12382 Q. Looking at this statement here, showing the details of the batch transported, starting September 13, 1907, I notice that when the oil reached Watson you approximated 2,000 barrels as having been mixed or contaminated. Is that right?—A. I did not approximate it. These results were based on the measurements that were made.

Q. Is that the fact according to the details?—A. Yes, sir.

Q. When it reached State Line, 6,483 barrels; is that correct?—A. It seems to be.

Q. Does that include the 2,000?—A. I think not.

Mr. CRAWFORD. You can tell by adding up, can't you?

WITNESS. Yes, I can tell by adding up and seeing if the totals check.

Mr. CRAWFORD. You are only asking him as to what this paper shows, of course; not what the fact is?

Mr. KELLOGG. Yes.

Mr. CRAWFORD. Your question could be answered by adding the various amounts together.

Mr. DURAND. I do not think so.

WITNESS. I think Mr. Vandergrift could testify to the details of that.

Q. Now you say you have examined those. How do you know about them?—A. I have examined all of these in a general way. Morgantown, in the first case here, had pumped 30,000 barrels; the line between Morgantown and Watson held this amount, and the mixture is the amount taking the cut at—well, the cut is not indicated here, apparently. I presume the cut was changed.

12383 Q. And changed to 44 gravity, wasn't it?—A. Changed to 44 gravity. They started pumping that, but the approximate mixture is the amount that ran out before they got the high-grade oil.

Q. Yes.—A. That would be 2,000 barrels in this case.

Q. At Watson?—A. Yes, sir.

Q. Now, that would be true of the second station, wouldn't it?—A. Yes, sir; the same way.

Q. 6,483 barrels?—A. These must be the totals, then.

Q. Then 6,483 includes the other?—A. Yes, sir.

Q. At Knepper, between State Line and Knepper, there seems to be only 936 barrels of contaminated oil.—A. It appears to be so from this case.

Q. According to that it means between Morgantown and Knepper, doesn't it, only 936 barrels?—A. It seems to indicate that; yes, sir.

Q. So that when this oil reached Knepper from Morgantown, a long distance on its journey, there had only been 936 barrels contaminated?

Mr. CRAWFORD. You don't know whether those indicate that each of those amounts was inclusive or not, do you?

Mr. KELLOGG. Wait a minute until I examine this witness.

A. I would like to indicate that this one particular test, I think, was one of the five that was made less carefully than the other four, made under ordinary running conditions.

Q. Then, according to that, when that oil had reached Knepper it was less mixed than it was when it had reached the first station?—A. It would appear so from these figures on this paper.

12384 Q. 936 barrels. When it reached Millway from Knepper how much contamination was there?—A. 16,984.

Q. What were the conditions between Knepper and Millway that caused practically all the contamination?—A. I should not say that all the contamination had occurred between Knepper and Millway. My understanding of these is that particular care was taken at the

beginning and end of the batch and only casual care taken especially in this first test, which was made in the ordinary run of business, with no attempt to measure more precisely than is usually done.

Q. How do you know that?—A. That is my understanding from conversation with the men.

Q. Then, that test at Watson and the one at State Line were not made in the same manner as the others?—A. I should say that some erroneous observation had been made at Knepper in this particular case.

Q. Very well. Then, there might have been some erroneous observation made at Millway?—A. I don't know.

Q. You don't know anything about it, do you?—A. On its face it does not look very accurate, does it?—A. This particular one seems to have an error, in the fourth instance.

Q. I show you the one made on October 20, 1907. Between Watson and State Line there was practically no additional contamination, was there?

Mr. CRAWFORD. What test is this one?

Mr. KELLOGG. October 20, 1907.

WITNESS. October 20, 1907. From these results there
12385 appears to have been an increase in contamination from 3,340 barrels to 3,589 barrels, between Watson and State Line.

Q. Only 249 barrels?—A. Yes, sir.

Q. That is all. And that is a greater distance from Morgantown to Watson, isn't it?—A. I haven't the distance.

Q. Look at them on the map.—A. Morgantown to Watson, Watson to State Line; the distances are about equal.

Q. The distances are about equal. In one case there was a contamination of over 3,000 barrels and the other only 249?—A. It would appear so.

Q. Now that goes to show that your laws as to the degree of mixture are a good deal of a guess, doesn't it?—A. I think not.

Q. Did you figure in your calculations that there were only 249 barrels of mixture between Watson and State Line and that there were over 3,000 between Morgantown and Watson?—A. No, sir.

Q. You did not?—A. I think especial care was taken at the beginning and end of this batch, as I have said before.

Q. What were those others made for if they were mere guesses? This is another batch I am showing you. How do you know special care was not taken at each place?—A. I can not answer that except as a matter of general conversation.

Q. It would look on its face as though it was a matter of guess, wouldn't it?—A. I would hardly say figures would be recorded as a guess.

Q. Let us see another. Now I notice in this that as far as Knepper the contamination is put down as 6,800 barrels.

12386 Mr. CRAWFORD. What test is that?

Mr. KELLOGG. This one station between Knepper and Millway is——

Mr. DURAND. There is not a station between. It is one stretch.

WITNESS. This is the test of October 20.

Q. One stretch between Knepper and Millway, the contamination is about 10,000 barrels.—A. Aren't there some intermediate stations in that?

Mr. KELLOGG. Apparently not according to their statement.

Mr. CRAWFORD. You do not know how those figures there were arrived at, do you?

Mr. KELLOGG. Now, hold on a minute. I am going to find out whether he does or not. He has testified here as an expert who knows.

Mr. CRAWFORD. Those are marked approximate mixtures.

A. I do not know precisely how they were arrived at at the intermediate points.

Q. No; but you are testifying you examined the data on which they made their estimates and that you believe them to be correct.—A. Yes, sir; with the understanding that the precise measurements were made at the beginning and end and the main test was between the beginning and end.

Q. Who told you that was true?—A. By conversation with Mr. Vandergrift and——

Q. What were they putting these figures down for if they were not made accurately?—A. I do not know.

Q. How many more estimates here are as inaccurate as that,
12387 do you know?—A. I don't know whether those estimates are inaccurate or not.

Q. Now, I show you the one of September 28, 1907.—A. That was made with scrapers.

Q. Very well. The total contamination shown by this sheet, when the oil arrived at Knepper, was how much?—A. 19,202 barrels.

Q. When it reached the end of its journey at Millway the total contamination was how much?—A. The amount below 42.6 gravity was 17,000.

Q. Very well. Then, the particles must have caught up and got together again after leaving Knepper; isn't that true?—A. The point of cutting might not have been the same. That same statement may hold regarding the other tests.

Q. Why would they cut it at a different grade at one station than at another?—A. I do not know.

Q. If they were trying to arrive at the amount of contaminated oil they would cut it at the same percentage at each place, wouldn't they?—A. I don't know.

Q. Now, wait a moment. Why would they cut a different degree at each station?—A. The final results upon which my calculations were based were cuttings in the neighborhood of 1⅛ degrees.

Q. If these gentlemen were accurately measuring the contamination at each station through which that oil passed, as this diagram

tends to show, why would they use a different degree at each station? They should use the same, shouldn't they?—A. I should think so.

12388 Q. Now, you don't know they did not, do you?—A. No, sir.

Q. Very well. Then, according to this statement, when the oil arrived at Knepper there were over 19,000 barrels of contamination, and when it arrived at its destination only about 17,000; isn't that correct?—A. But in only the last case is the point of cutting indicated.

Q. Do you know of any object of cutting it at a different degree at an intermediate point?—A. I do not.

Q. It should be the same, should it not?—A. I don't know.

Q. Why not?—A. As to where they actually turned the oil into the other tank I do not know. This point of cutting indicated here is a point not necessarily the turning of the oil into the tank, but an allowance to make the whole test uniform.

Q. The total test you figured in this case, the one shown here, was 17,044 barrels, wasn't it?—A. Yes, sir.

Q. So that is the final test of contaminated oil in that test, isn't it?—A. Yes, sir.

Q. Very well. And at the station before, this very diagram shows it to be 19,202 barrels, doesn't it?—A. The total contamination, but the point of cutting is not indicated in that distance.

Q. What do you mean—the degree?—A. This was 44-degree oil that they were pumping. They received at Millway below 42.6 gravity 17,044 barrels.

Q. You do not know that the 19,202 barrels was not below the same gravity, do you?—A. No, sir.

12389 Q. You don't know anything about it?—A. I don't know where they cut at the intermediate stations.

Q. Now, what was the object of showing the amount of contaminated oil in each station? To show accurately the effect of contamination as it passed through the lines, wasn't it?—A. I don't know why the intermediate details were given.

Q. To show the effect on the oil of the increased distance, wasn't it?—A. I don't know.

Q. And the different conditions?—A. I do not know. I did not use the intermediate results at all in my calculations.

Q. Oh, you did not?—A. No, sir.

Q. Then, you do not know anything about what conditions may have contributed to the contamination of this oil as it passed through various stations or various parts of these lines, do you?—A. Oh, I think I do.

Q. What are they?—A. I have already stated them.

Q. What was the cause of there being 19,000 barrels at Knepper and only 17,000 when it got to the end of the line?—A. I should have to examine very carefully into all the circumstances before I could answer that.

Q. Then, you don't know, do you?—A. No, sir.

Q. What was the cause of there being in the one of September 13 6,483 barrels when it reached State Line and only 936 when it reached Knepper?

Mr. CRAWFORD. That is objected to as assuming facts that are not shown in the proof.

Q. Do you know anything about it?—A. If those facts are stated I do not know what the reason is.

12390 Q. The fact is that you do not know anything about how much the contamination was at each station or when it got through, isn't it?—A. Why, I am taking the results that have been testified to and sworn to as being correct regarding the beginning and end of the line.

Q. Do you know what those documents which I have handed you mean?—A. Yes, sir.

Q. You do? But you can not explain what those——A. Well, regarding the cutting at the intermediate points, regarding the precision of the measurement at the intermediate points, I am not very clear.

Mr. KELLOGG. No, I judge that is so. That is all.

Redirect examination by Mr. CRAWFORD:

Q. Referring to defendants' Exhibits 238, 239, and 240, being figs. 12, 12–A, and 13, and assuming the eddying effect which you testified to among the different particles of oil, nevertheless in your opinion would the general law hold good that the particles of oil at any moment, close or near to the interior surface of the pipe, travel more slowly than those nearer to the centre of the column of liquid?—A. Yes, sir; that is, it is my opinion that that is so.

Q. And in testifying in regard to what you said about the eddying effect and the change in position of particles of oil, you did not mean to be understood, did you, as testifying that at any moment that difference in the velocity would cease?—A. No, sir. These

12391 figures are correct representations of the instantaneous forward movement of the particles in the different portions of the pipe.

Q. And while the individual particle of oil might pass from the centre to the outer part of the pipe, therefore changing its velocity, the other particles which took its place would come under the action of the same increased or greater velocity, would they not?—A. Yes, sir.

Q. Would the general result, therefore, be very different in your opinion than it would if the particles traveled in a straight line? By the general result, I mean to say as tending to produce a mixture.—A. No, sir. If the particles did not move in eddies there would be no mixing as far as the oil in the pipe itself is concerned, only when it poured out into the receptacle at the further end.

Q. But you did not mean to be understood as testifying that the eddying operation which went on prevented the action of the general law of the different velocities, did you?—A. No, sir.

Q. And whether or not the amount of mixture in pipes would be in a direct ratio to the increase in the length, is it not a fact that as the pipe increased in length the amount of mixture was increased?—A. Yes, sir.

Q. And would increase progressively as the length of the pipe increased?—A. Yes, sir.

Q. Now, in the experiments testified to at Millway, where you testified to other causes of contamination or mixture from that which resulted in a single pipe, would those other causes acting
12392 simultaneously prevent the operation of the law which has been shown in these diagrams, based upon the difference in the velocities?—A. Not unless these was a complete stoppage in the pipe, or in one of the pipes, I mean to say.

Q. In the operation of the line as testified to in regard to the Morgantown-Millway tests, would not the process which is set forth in these diagrams tend to continue irrespective of the fact that other causes of contamination were acting at the same time?—A. Yes, sir.

Q. So that the effect of the two or more causes would be cumulative, would they not?—A. Yes, sir; they would be additive.

Q. Then is there anything in the conditions of the pipes used and the experiments conducted on the Morgantown-Millway line which affects the results which you have deduced from the results of these experiments shown in the diagrams, except such matters as the separators and local conditions in the interior of the pipes?—A. Not as regards the minimum estimate.

Q. In other words, whatever general results are shown as likely to follow from these tests shown in the diagram would continue to be likely to follow even if they were combined with the other causes existing in the Morgantown-Millway tests and under the conditions there?—A. Yes, sir.

Q. I understood you to say, referring to these diagrams—12 and similar diagrams—that the law of multiplication of the amount of mixture could not be told from the traverses. Did I correctly understand you? If so, will you explain what you meant?—
A. I said I had made no extended investigation trying
12393 to connect them, trying to connect precisely the traverse showing the distribution of velocities throughout the pipe and the amount of mixing.

Q. What do you say now as to whether the general law governing the operation can be deduced accurately from these diagrams and tests?—A. As yet I have not made the investigation connecting precisely the Pitot tube traverses with the mixing traverses. In a general way one supports the other, but the quantitative derivation of the mixing from the Pitot tube traverse in any event would be unreliable if it were not supported by actual mixing tests. But I think the Pitot tube traverses stand as evidence showing the cause of the mixing within the pipe when taken in connection with the knowledge that the flow proceeds in eddies.

Q. Taking into account, then, all the tests that have been testified to here, what do you say as to whether in your opinion the law of

the flow of oil in a single pipe can be deduced from the tests?—A. I think the minimum mixing when one oil follows the other can be foretold with a precision that is quite comparable with the precision of most hydraulic estimates.

Q. Is this subject of the difference in the flow of water in a pipe—difference in the flow of different parts of a column of water in a pipe—discussed in books on hydraulics?—A. It is.

Q. I understood you to testify that the books did not show any law in regard to the progressive mixture of liquids. Whether they do or do not show a law, do they tend to support your opinion in regard to the progressive mixture of liquids in pipes as the pipes
12394 lengthen?—A. Yes, sir; they show the causes that would lead to mixing and mingling of particles.

Q. I understand you to testify that, in your opinion, the process of mixture would be going on throughout the passage of the column through the whole length of the pipe. By that I do not mean to say that the entire body of oil in the pipe at any moment would be mixed, but that the process is a continuous one, going on from one end of the pipe to the other as the body of oil passes through. Is that correct?—A. Yes, sir. As the mixed portion of oil between two batches of oil, one following the other, advances through the pipe it constantly augments in size.

Q. That is to say, the general law about the difference in velocities would continue to act, would it?—A. Yes, sir.

Q. The tendency would be for the oil nearer the interior surface of the pipe to move more slowly than the oil nearer the middle of the pipe, and thus to produce a constant elongation of the oil toward the middle of the pipe, except so far as that is affected by the eddying action?—A. If the question is meant to say a constant elongation of the mixed portion, then I would answer yes.

Q. That is what I meant.—A. Yes.

Q. In regard to these statements of details in regard to the Morgantown-Millway tests, I think you stated that you did not know and could not tell from the papers shown you as to where the cuts were made at the intermediate stations.—A. I so stated.

Q. And you do not know, do you, certainly, whether these
12395 figures given under the head of "Approximate mixture" at each station or at different stations are intended to be inclusive of all the mixture up to that point, or whether it applies to the mixture for a part of the way?—A. I do not, certainly.

Q. You based your judgment, as you stated, upon the conditions at the beginning of the test and the results shown at the end, at Millway?—A. Entirely so, and taking into account the number, size, and length of the pipes between the two terminals.

Mr. CRAWFORD. I may want to recall this witness after Mr. Vandergrift has been upon the stand and has explained these reports.

Mr. KELLOGG. After he straightens him out. All right.

(A recess was here taken until 2 o'clock p. m.)

12396 AFTERNOON SESSION.

Present: On behalf of the petitioner, Mr. Frank B. Kellogg, Mr. Charles B. Morrison, Mr. J. Harwood Graves. On behalf of the defendants, Mr. John G. Milburn, Mr. Moritz Rosenthal, Mr. John S. Miller, Mr. Chauncey W. Martyn, Mr. F. L. Crawford, Mr. Walter F. Taylor, Mr. Douglas Campbell, Mr. W. Cleveland Runyon.

JOHN D. ROCKEFELLER, called as a witness, being duly sworn, testified as follows:

Direct examination by Mr. MILBURN:

Q. What is your full name?—A. John D. Rockefeller.

Q. Where do you live?—A. My legal residence is in New York City, 4 West 54th street.

Q. What was your first connection with the oil business?—A. My first connection with the oil business was in the year 1860 or 1862, not earlier than 1860, nor later than the beginning of 1862.

Q. You were quite a young man at that time?—A. Somewhat younger than I am to-day.

Q. And in what part of the business was it that you engaged then?—A. I engaged in the refining of oil.

Q. Were you by yourself or with anyone else?—A. There were five partners of us engaged in the business.

Q. Who were your associates?—A. Morris Clark, James Clark, Richard Clark, and Samuel Andrews.

12397 Q. Had you a refinery?—A. We organized a copartnership under the name of Andrews, Clark & Company at Cleveland, and constructed a refinery.

Q. When was the refinery completed so as to be in operation?—A. We began the work of construction in the early part of the year, whichever year it was, 1860 or 1862—I could not give the exact date of the completion of the refinery.

Q. During the year that you began it?—A. Oh, I suppose that during the year; probably not very many months after we began the construction.

Q. What was the size or capacity of the refinery that you started?—A. I could not state exactly the size of the refinery at the time of starting. It was a refinery—while small, of good size for those beginning days.

Q. You cannot give us an idea of its capacity?—A. I can not from memory give the capacity of the refinery at the time of beginning.

Q. How long did you continue in the relation that you have mentioned with your associates?—A. We continued until the early part of the year 1865.

Q. What change took place at that time?—A. A dissolution of the copartnership of Andrews, Clark & Company took place at that time.

Q. And what succeeded to it?—A. I bought the property and the business. The successors of the business were a firm which we then organized under the name of Rockefeller & Andrews.

Q. Had you any other associates when you organized that firm than yourself and Mr. Andrews?—A. None at that time in
12398 this refinery business.

Q. Did you continue then in the refinery business?—A. I continued in the refinery business.

Q. Between the time that you started, whether it was in 1860 or 1862, and this time in 1865, when you organized the firm of Rockefeller & Andrews, had you increased your business and the capacity of your refinery?—A. Yes, we had steadily increased the business and the capacity of the refinery.

Q. How long did the firm of Rockefeller & Andrews continue until there was a change?—A. The firm of Rockefeller & Andrews continued for about two years. Meanwhile, in the year 1866 I should say, there was a change. Another firm was organized in the year 1866.

Q. What firm was that?—A. That was the firm of William Rockefeller & Company.

Q. Who composed that firm?—A. The Rockefeller was my brother William; the company was Rockefeller & Andrews.

Q. That is, your brother William, and Andrews?—A. We were the three partners; but as I state, the company was the firm of Rockefeller & Andrews. The Rockefeller was my brother William.

Q. Now, where were their headquarters?—A. Their refinery was located at Cleveland, and adjoining the lands upon which the refinery of Rockefeller & Andrews was located.

Q. Did William Rockefeller & Company build that refinery?—A. They did.

Q. And what year was it that they built that refinery?—A. They built that refinery in the year 1866.

Q. What was the next change?—A. The next change was the organization of another firm in the same year, under the name
12399 of Rockefeller & Company. This firm was located in New York.

Q. And what was its business?—A. Its business was the sale of the oil for export, which we made, and the warehouse business; the regular business of warehousing the oil.

Q. Who were the members of that firm?—A. The same three men who composed the firms of Rockefeller & Andrews and the firm of William Rockefeller & Company.

Q. Who particularly had charge of the New York business?—A. William Rockefeller removed to New York, took up his residence there.

Q. To develop the sale of oil from that point?—A. To develop the sale of oil from that point, and to save for our business the expenses of the commission men; and, by doing our own warehouse

business, to reduce, if possible, to the minimum of cost the handling of the oil which we exported.

Q. You have given us the organization of that firm in 1866, and at that time there were the three firms which you have mentioned in existence. When was the next change?—A. The next change took place in the year 1867, one year after the organization of the last-named firms, of William Rockefeller & Company and Rockefeller & Company of New York.

Q. What was that change in 1867?—A. All the properties of Rockefeller & Andrews, William Rockefeller & Company and Rockefeller & Company were put together, taken over by the firm of Rockefeller, Andrews & Flagler.

Q. Was Mr. Flagler an addition to your organization at
12400 that time?—A. Mr. Flagler was a man already of large business experience and a valuable addition to our firm in the conduct of the business, and a large amount of capital was then added at that time.

Q. At the organization of the firm of Rockefeller, Andrews & Flagler?—A. Yes, sir.

Q. Then, at that time you had the two refineries which had been built at Cleveland, and the warehousing and merchandising business in New York?—A. Yes, we had the commission business in New York, and our warehousing business was in connection with that, and the manufacturing was done by these two refineries at Cleveland.

Q. Where did you market your product during those years, elsewhere than at New York for export?—A. We had a domestic trade for oil from Cleveland.

Q. How was that domestic trade, as compared with your other trade, limited or not?—A. The domestic trade was a steadily growing trade, and to the extent that we could secure the domestic trade it was preferable to our export business at the time.

Q. How long did you then run, from 1867, the organization of the firm of Rockefeller, Andrews & Flagler, until the next change?—A. Well, Mr. Milburn, I think we went three years before making any changes then. I think we went to 1870.

Q. And then what took place?—A. We enlisted a number of capitalists and organized what was called the Standard Oil Company of Ohio, with a capital of a million dollars.

Q. I have the exact date of the organization of that firm as
12401 January 2, 1870. Does that correspond with your recollection?—A. I should say in the very early days of January, in 1870.

Q. Apart from the capital, what properties did it acquire and start with?—A. The Standard Oil Company of Ohio?

Q. Yes.—A. It took over all the properties which had been owned by Rockefeller & Andrews, William Rockefeller & Company, and Rockefeller & Company.

Q. And at that time the properties and business of Rockefeller, Andrews & Flagler?—A. Yes. These other properties had been merged. That should have been my statement, instead of the way I made the statement. I overlooked at the moment the fact that Rockefeller, Andrews & Flagler, beginning with 1867, represented all the properties. That is quite right.

Q. What had been the course of your business during those years, up to the time of the organization of the Standard Oil Company of Ohio, with reference I mean now to growth, increase?—A. We had had a steady growth from the organization of the first firm in 1860 or 1862 until that time.

Q. That is, it had been one of growth and increase all the time?—A. Growth and increase; steady growth and increase.

Q. And how was it as to the attention that you men, its owners and interested in it, gave to the matter of improvement in methods?—A. We were of course constantly devoting ourselves to the study of everything that would promote its growth, in every department of manufacture and merchandising, and the finance, and all that would go to contribute to its prosperity. We had no other business.

Q. None of you had; neither you nor William Rockefeller nor Mr. Flagler?—A. No.

12402 Q. Neither of you had any other business?—A. No.

Q. You were devoting yourselves——A. We were giving our time and attention to the prosecution of this business.

Q. Take those years and what had been the location of the oil business in the country?—A. Do you refer to the business of refining the oil?

Q. The business of refining, and also as to the production of the crude.—A. Perhaps the production of the crude during those years, if you would have it?

Q. Yes, begin with the production of the crude. Where were the oil fields?—A. In Venango County, Pennsylvania, largely.

Q. What part of Pennsylvania is that?—A. Out there in the western part, isn't it? I ought to be up in the geography.

Q. About how far from Cleveland?—A. I could not definitely state, but I suppose 135, 140, or 150 miles.

Q. Had any other oil-producing fields been discovered, say, prior to 1870, but that one?—A. If there had been other producing oil fields discovered, I do not seem to recall it at the moment. We looked to that field, and while there might have been a beginning of production here and there, I think that there was nothing of importance. At all events we looked to this section of the country to get our crude oil, which we refined in Cleveland.

Q. What were the refining points?—A. Cleveland, Pittsburg, Philadelphia, Baltimore, Parkersburg, and New York.

12403 Q. You have omitted those in the oil region itself.—A. I thought I mentioned the oil regions.

Q. What would you call the points in the oil regions?—A. Titusville was a very important point. Oil was also refined at Oil City.

There was a large refinery there in the early history, and other refineries, more or less up and down the creek called Oil Creek.

Q. You got your crude oil from this field that you have mentioned, for your refining?—A. For our refining.

Q. And how did you get it?—A. We brought it by railroad to Cleveland, over the Atlantic & Great Western Railroad, and later over the Lake Shore.

Q. During that period what had been the course and development of the industry in a general way?—A. Do you refer to the refining of oil?

Q. The refining of oil.—A. There had been from the first practical knowledge of cleansing the oil, and rapid development in the refineries, very rapid development in the refineries and building of refineries.

Q. Now come particularly to the multiplication of refineries during those years.—A. There were a great many refineries in operation. Those interested in the refining business began to construct refineries soon after they learned how to cleanse the oil, and they multiplied very rapidly.

Q. Was it a prosperous business during those years or any part of them?—A. It was a very prosperous business indeed in the beginning, very prosperous indeed.

Q. Did that lead to the erection of a good many refineries?—
12404 A. Of course the prosperity of those first engaged in the business was known to others, and the numbers of those who sought to engage in that very profitable business steadily and very rapidly increased.

Q. Give us an idea during that time of how a man could start a refinery. What sort of refineries were started?—A. Well, as a matter of fact, people from a number of other businesses, unfamiliar with this, engaged in this. I might say that people turned to this as a business from almost every other kind of business. Many of the persons engaging in this business of refining oil were not necessarily among our leading and best trained business men.

Q. Was there a rush into the business in those early years?—A. A great rush to the business of refining oil.

Q. What sort of refineries were put up?—A. All sorts and conditions of refineries, from very small ones to moderate sized and larger, according to the capital which the people could control who engaged in the business. Our construction was quite different from some of the very small and inferior ones. We started in with some pretty clear ideas of business, having had a number of years of practical business experience, and as far as we went we sought to build in the best possible way. We thought we had the model refinery at the time.

Q. In the oil regions what was the general character of the refineries that went up there during this period?—A. In the oil regions I should say that the general character of the refineries was not on the average, up to the refineries which were constructed at

12405 Cleveland. Many very inferior little refineries were constructed there.

Q. You have spoken of Mr. Andrews as being with you; how was it as to his being a practical refiner, a trained man?—A. That was the reason we gave him an interest in the business.

Q. He was a practical refiner?—He was a practical refiner of oil, and the number of those at that time who knew how to make good illuminating oil was comparatively very small, so that it gave Mr. Andrews a most excellent opportunity to associate himself in the business in this way.

Q. Coming now to Cleveland, what were the advantages and the disadvantages, relatively speaking, of Cleveland as a refining point?—A. Cleveland as a distributing point for the oil was, I should say, without doubt, the best to secure the domestic trade.

Q. Why was that?—A. I suppose generally on account of the facilities that brought us more naturally in connection with those western people. I know that Cleveland was the best point that we had for the domestic trade.

Q. What transportation facilities had you there?—A. There were transportation facilities by the railroads leading from Cleveland into the West, different railroads; and we always had trade which we could supply by the Lakes as well, reaching up into all that large northwestern country.

Q. That you could reach both by water and rail communi-
12406 cation?—A. Oh, yes.

Q. Coming eastward, what were your lines of transportation?—A. We had two or three railroads.

Q. What were they?—A. We had the Lake Shore and New York Central; we had the Atlantic & Great Western, and the Erie. We had also at times, which we availed of, the Pennsylvania road. But our reliance was upon what we called the northern lines—that is, the Lake Shore, New York Central, Atlantic & Great Western, and the Erie.

Q. That is, the Lake Shore & New York Central making one through line, and the Atlantic & Great Western and the Erie together making another through line?—A. Just so.

Q. Had you also water communication east?—A. Oh, yes; we always had the water communication, which was of great value to us at that point in respect to the shipments for our export trade.

Q. That water communication consisted of what? By lake?—A. We loaded the oil on the lake crafts; from the lake crafts it was unloaded upon canal boats in the Erie Canal, and brought to our docks at New York.

Q. So you had a through water route all the way from Cleveland to New York?—A. We had a through water route all the way from Cleveland to New York.

Q. Via Lake Erie, the Erie Canal, and the Hudson River?—A. Quite true; yes, sir.

Q. And that was one of the advantages of the situation of
12407 Cleveland?—A. Yes, it was; it was of very great advantage to us at times. It was of special advantage to our firm, because we had the capital to enable us to take this slower route of transportation and carry the oil through in that way.

Q. What would you call the disadvantage or disadvantages, relatively speaking, of Cleveland?—A. Of course, we had a longer haul for the oil which was exported.

Q. Also, as to the crude with reference to the oil regions?—A. We brought the crude away from the oil regions toward the west, and in transporting our refined products to the seaboard market we had a longer haul, for example, than our neighbors in the oil regions engaged in the same business and those engaged in the business at Pittsburg.

Q. So you had that longer haul and then you had to haul the crude to Cleveland?—A. Yes. Of course, we hauled it right back from the seaboard in taking it to Cleveland.

Q. At this time, how was it as to the size of your refineries as compared with the other refineries in Cleveland?—A. What date are you referring to?

Q. 1870, at the time of the organization of the Standard Oil Company of Ohio.—A. Well, ours was much the largest.

Q. Was it the largest in the country?—A. I believe it was the largest in the entire country, yes, at this time, in 1870, without doubt.

12408 Q. You say that the Standard Oil Company of Ohio was organized with a million dollars capital?—A. Yes, sir.

Q. How was that as to amount at that period in 1870, as to whether or not that was a large capitalization for a manufacturing concern?—A. I should say it was very large, indeed. It seemed very large to us, who began with a capital of only $4,000 in 1862.

Q. As compared with other concerns, mercantile and manufacturing concerns in the country, was that a large capitalization in 1870?—A. Oh, it was a very large capitalization.

Q. Can you mention any innovations or improvements in the oil business that during those years your firm introduced, either in the move of refining or the mode of conducting the business?—A. I do not know that I can give particularly the successive steps. We were steadily incorporating new ideas and putting them into practice for the benefit of the business. Perhaps I might state as to one, among others, we began the manufacture of barrels by machinery. Shall I speak any further?

Q. Yes; tell us about that.—A. The barrels which we used were of a capacity of about 44 or 45 gallons. We bought these barrels of the small barrel makers, who bought their staves from stave dealers here and there about the country. The barrels which we secured from them were not so good to hold the oil. The barrels were not always dry.

12409 Q. Is that through the use of green wood?—A. Through the use of the green wood and in consequence of the rapidly increasing demand for barrels. These small coopers, with very limited capital, could not wait always for the material which would have been most suitable to put into a barrel. In other words, as you state, there was more or less green material used. We were paying for those barrels what seems to us at the time very high prices. We were paying as high as $2.50 apiece, and then, as I say, we were not always getting such a barrel as we ought to have had to put the oil into, and we had a great deal of trouble, in the shipments of the oil and in our warehouses in New York, with the leakage on account of the shrinkage. What we did—if that is what you desire me to refer to?

Q. Yes.—A. What we did was to go into the woods and buy the timber and dry the timber in the woods, and also dry it with dry kilns which we constructed. In drying the timber in the woods we were enabled to ship all dry staves and in a much larger quantity in a car than we could ship of the green. We proceeded with the manufacture of the barrel, and made a great saving to us in the cost of the barrels and in the quality of the barrel. So that we regarded it a very good step of progress. I may say, if you do not object, that the same barrel which we bought for $2.50, $2.25, and $2 (the higher range of prices) in after years we were able to manufacture by machinery for less than one-half of that original cost.

12410 Q. And then your barrel, when you got it, was a barrel which reduced the leakage and loss from leakage?—A. Well, not only that, but the barrel which we produced, instead of holding 44 or 45 gallons, we increased in size, so that we added 2, 3, 4, and 5 gallons capacity. So that when I am comparing——

Q. When was it that you went into this improvement of the barrels?—A. I could not give you, from my recollection, the precise time. It was, I believe, after Mr. Flagler came in with us.

Q. It was before the Standard——A. It was some time soon after 1867.

Q. Now that is one instance.—A. I fear I have not made clear my statement. In comparing the price of $2.50 for the barrels, such as we bought from the cooper, I should have stated also that we could not get an adequate supply. Our business was restricted on that account. We were forced to undertake the manufacturing ourselves, in order also to insure a supply of barrels with regularity to meet our increasing requirements.

Q. Now, Mr. Rockefeller, when you went into the manufacture of your barrels, as you have stated, were you an exception in the trade in doing that?—A. We were, in the first stages undoubtedly, and for some considerable length of time we were without doubt.

Q. For some years?—A. I should say for a number of years, but I could not speak just with definiteness as to the length of time.

Q. In making your own barrels, did that represent in
12411 money a considerable amount in saving?—A. It represented

a very good profit, a very satisfactory profit as a business by itself considered. We having made the barrels, were not obliged to go about seeking the purchasers of the barrels. We needed the barrels and secured them by these methods at the minimum cost; and in that business by itself considered, going at first into the woods and taking the axe and chopping the tree down, and storing the staves there until they were dry, having capital to do that, proceeding at each step with all the economies that could be introduced, we made a very satisfactory business out of that by itself.

Q. And taking it in connection with your oil business, that economy represented a considerable sum of money?—A. Oh, yes; it did represent, as I say, a fine business, a good business.

Q. Now, that is an instance of what I would call an innovation in the oil business, that you established, is it not?—A. I should say so.

Q. Can you recall any others? I do not want you to tax your mind too much. If there is any that comes in in just a general way, you may state it.—A. That was one of many things which we did in those years; and as the years went by, of great importance to our business, in this same line. The things which we used, and for which consequently we furnished a steady market from time to time as our capital would permit, we were enabled to produce for our own use, and at prices below the prices at which we had previously purchased, and at which our competitors were buying.

Q. Let me mention another matter, and that is the estab-
12412 lishment of your own house in New York. State if that was an innovation, and one which resulted in economy in the transaction of your business, as well as other advantages.—A. It was of advantage to us, coming as closely as possible into contact with the exporters of oil, making their acquaintance.

Q. Acquiring your warehouses?—A. Furthering our knowledge in regard to the markets of the world—that was a part of the study of our New York house. And then as to the administration of the warehouses, the same general ideas of economy which we followed in the barrel making and in other departments were rigidly adhered to, and it was a profitable part of our work, it was a saving and a help and a benefit. I might add, if I am permitted to do so (although it is not directly in connection with the warehousing business), that we were constantly in need of increasing capital as our business developed; and in establishing ourselves and our credit at New York, we were enabled to secure large sums of money at lower rates than we could secure the same in the West.

Q. You were always large borrowers?—A. From the very beginning, yes; and I am thankful to say, we always had a good credit, for we always kept our covenants, paid our paper, and our ability to secure such loans, and to ally with us leading capitalists, was a great advantage to us. Capital was very valuable to us in all those years.

Q. In the particular connection which you are mentioning, establishing yourselves here in New York, with the credit that you had, opened the New York loaning market to you?—A. Yes.

12413 Q. Extended your facilities?—A. Extended our facilities with the New York banks with whom we kept our deposits, and we proceeded as rapidly as possible to add to our ability to purchase money in the cheapest money market of the country for the purpose of extending our business.

Q. When you organized the Standard Oil Company of Ohio, did you bring in new men and capital?—A. The men whom we did bring in at that time were capitalists who had known us, who had watched our progress, who had confidence in us, and they made a very substantial contribution in money; and not only that, we could also expect from them loans and financial assistance in addition. Do you ask for the special amount of contribution?

Q. No; I do not care for that now. Who were they?—A. Stillman Witt was one, a very wealthy man; Amasa Stone, very well known——

Q. Were they Cleveland men?—A. Cleveland men. Amasa Stone was our very wealthiest man, a great capitalist; and we also, through the acquaintance of Mr. William Rockefeller, at New York, secured as stockholders with us Mr. Oliver Jennings, a New York capitalist, and Mr. Benjamin Brewster. I think we had another capitalist at Cleveland, Mr. Handy, at the time president of one of our banks, a banker of 50 or 60 years' experience.

Q. Through that instrumentality you were able to borrow, as I understand it, large sums of money for your business, to use as capital in your business?—A. Yes. Our credit enabled us to borrow at Cleveland, I may say, all the money that they had to loan, and
12414 soon we gained in our ability to borrow very large sums at New York.

Q. And that was money that you used in the expansion and development of your business?—A. Constantly.

Q. And for its economical conduct?—A. Certainly; yes, sir.

Q. Referring for a moment back to the export business in New York and your establishment of a house here, was New York the principal exporting point for the oil in those days I am talking about?—A. It was in those days, and I think it has held its supremacy.

Q. And what did that involve—bringing the oil here?—A. Bringing the refined oil here.

Q. Then what manipulations went on with it here?—A. It passed through the warehouses, where it had to undergo the inspection required through our oil exchanges here when sales were made, to meet the requirements of the exporters of refined oil, and we had to go over the cooperage and put the barrels in order for placement in the ships.

Q. This was the market where the purchasers were for export?—A. The purchasers, largely, yes. I should say that the foreign export business very largely centered at New York.

Q. How did this oil come, say from your refineries in Cleveland? Did it come in barrels?—A. We had the switches from the railroads

Q. No, I do not mean so much that way, as how was the oil itself put up?—A. Oh, it was put in these packages, in these barrels and shipped (50 or 60 barrels perhaps) in a box car, or in an open car, differing at times.

Q. And discharged in New York?—A. Taken to our ware-
12415 houses and discharged in the warehouses.

Q. And then taken from them for shipment abroad?—A. Might I be pardoned just there? We began at once to secure our own lighters to handle this oil, in taking it from the cars. That was another step—there are so many steps which from time to time we made, that I can not recall them all by any means at the moment, but we secured our own lighters and took this oil from the cars around to our warehouses in these lighters.

Q. So that you had your own warehouses and your own lighters for transferring the oil from the railroads to the warehouses?—A. Just so.

Q. Now how was that with the bulk of the other people in the business?—A. I do not recall cases of anybody else at the time doing that. As a matter of fact the business of refining, by itself considered, with the rapid growth of it, absorbed the capital so fast that as a rule our friends in the refining business had not the capital to take those forward steps. It all cost money.

Q. Now, a refining concern that hadn't them, shipped its oils in barrels to New York or Jersey City, or wherever the terminal was, and then had to pay the expenses of lighterage and warehousing in New York?—A. They paid the expenses of lighterage, they paid the commission for selling oil, and they paid warehouse charges which were larger than our cost in handling our own oil in our own barrels.

Q. So that your method which you pursued from the beginning was to provide your own facilities rather than to have others
12416 provide them for you?—A. As fast as we dared take the capital for these various investments, that was what we did.

Q. Coming now to the years 1870 and 1871, what sort of years were those in the oil business?—A. The business of the late sixties, and around there, was very much overdone. The refineries had been constructed so rapidly that the profit in refining was very much lessened, so that we constantly looked to an increasing volume and a lessening profit for the good returns which we continually got out of the business.

Q. What was the fact as to there being an excess of refining capacity in the country, disclosing itself through those years?

Mr. KELLOGG. What years?

WITNESS. The late sixties.

Q. And 1870 and 1871.—A. Yes, along in that neighborhood. The facts, as I have stated, were that there were more refineries than were required to refine the oil that was produced. The refineries consequently could not all run. They were part of the time idle. It was costing more to make the oil under such circumstances.

(A recess of five minutes was here taken.)

Q. Mr. Rockefeller, did you have negotiations after the organization of the Standard Oil Company of Ohio, or rather say in 1871 or thereabouts, with other refining interests in Cleveland?—A. We did.

Q. Looking toward their purchase?—A. Looking toward their purchase.

12417 Q. When would you fix the time that those negotiations were entered into?—A. The negotiations were entered into toward the last part perhaps of the year 1871, I should say in the autumn.

Q. Do you recall with what interests you first came into such relations?—A. We consummated a negotiation for the purchase of the properties and business of the then firm of Clark, Payne & Company. These negotiations as I say were consummated along in the latter part of the year 1871.

Q. Who and what were Clark, Payne & Company?—A. Clark, Payne & Company were next to us; a very considerable refining company at Cleveland.

Q. Next to you in size?—A. Next to us in size of the refining capacity.

Q. And who were the members of that concern?—A. Col. Oliver H. Payne, James H. Clark, and Mr. John Huntington. I recall those names. Possibly they were all of the firm. That was the Clark and that was the Payne and perhaps this Mr. Huntington was the company.

Q. Now, did you negotiate with any other at that time?—A. The next business, if I am right, that we bought was that of Alexander Scofield & Company, if I remember correctly, and their refineries.

Q. I want you to state now, when was it that your negotiations went on with the people that you have mentioned? You have told us of Clark, Payne & Company?—A. Yes, Clark first, in the latter part of 1871, and then next, and right in the connection at about

12418 the same time Alexander Scofield & Company. They were next in importance in the business.

Q. Then did those negotiations result in your acquiring the Clark, Payne & Company refineries?—A. Yes, sir, and those of Alexander Scofield & Company.

Q. Were there more negotiations at that time?—A. More negotiations at and about the same time; the first with Clark, Payne & Company, and I think second with Alexander Scofield & Company. There were also other refining concerns having a business of more or less importance, and after having purchased the Alexander Schofield & Company, I think we then proceeded to one of the others.

Q. And along at this time about how many concerns there did you purchase?—A. In order to know that, I should have to try to think of the names of those with whom I had to do. I should say that I personally had more or less of negotiations with six or eight of those concerns, the more important concerns. The precise number I could not state without——

Q. All of them at Cleveland?—A. All of them at Cleveland.

Q. And can you recall about how many of them were purchased?—A. I can not give the number of all that were purchased. As I state, I should say that, because the negotiation was not conducted by myself——

Q. I mean just in round numbers. Could you say a dozen?—A. Oh, a dozen, or more or less.

Q. During what period of time, say from the beginning to the end of it?—A. Beginning with the time I have referred to in respect to Clark, Payne & Company, and continuing on. Those negotiations were not all in one time. They continued along.
12419 There were several of these larger ones that came in at or about that time, and others coming on a little later.

Q. Would you say a number of them in 1871?—A. 1871 and early in 1872; the important ones very early in 1872, but a number of them along in the last of 1871.

Mr. ROSENTHAL. 1872?

Mr. MILLER. 1871.

A. 1871.

Q. That is what I understood you to say.—A. I did say so.

Q. How did these negotiations arise?—A. In a most natural way.

Q. Well, to begin with, were you all Cleveland men?—A. We were; neighbors, acquaintances, friends, having had our prosperity there together in the business in the good days; and beginning generally to recognize the changes that were coming, and the lessening of the chance of good returns from the refining business on account of the overproduction of refined oil, or of the overproduction of the refinery construction.

Q. Was it a recognized fact at that time, because of the condition of the business, that all businesses to go on were going to require more and more capital?—A. Well, we were very much impressed with that, and we were making efforts, as I have already stated, with some of these larger capitalists to induce them to come with us; but I did not tell you that we made utter failures in respect to our solicitations of capital from other and very large capitalists, who were afraid of the risks of the refining business. They had
12420 been made familiar, in the early sixties, with many enterprises, notably in connection with oil producing, that had aroused their fears and created grave apprehensions. In those years many schemes, often of very little value, were floated on perhaps large capitalization, and the buyers of those shares at these prices, which were advanced under the stimulus of the incoming of the production of the oil, lost money. There was general dissatisfaction, not only in that section of country, but I should say very broadly through the States. Whoever had money and was unwise enough to make purchases of those inflated shares had occasion to regret it afterward, and we were suffering. We went about from one capitalist to another, and I happen to know about it very well, because when my brother was working at New York to build up credit, and as far as we could to increase the chances of our securing additional capital

for our growing business, I was visiting such men as J. H. Wade, a neighbor of mine, another large capitalist, and other capitalists there. They treated me very kindly and politely, but said to me that they thought they would not invest any capital in the refining business.

Q. Now, at this time, along in 1871 and in 1872, was it a fact that in the refining business, to cope with the changing conditions, more and more capital was necessary?—A. Oh, yes; oh, yes; and that is the explanation of the last two steps which we made. In each case we got a large addition of money; and not only that, but we got men of financial strength, and the credit of the firm and our ability to buy money advantageously were very much advanced by the endorsement of such capitalists. You see we were young men.

12421 Q. I think I have brought out the facts.—A. I beg your pardon, if I have said too much.

Q. No; that is all right. I have got the fact that I wanted, that as the business changed in the profits that it yielded, the volume becoming more and more important, and there being an overrefining capacity, more and more capital was necessary for those engaged in the business?—A. We recoginzed that——

Q. That is a fact, is it not?—A. Oh, yes, sir.

Q. Now you can add what you were going to say.—A. We recognized that if we would succeed, we must, if possible, increase the volume of our business with a given expense, and thus reduce the cost of the business in every department of manufacture and merchandising, and the same held true in reference to these warehouses. If we could put through a warehouse two or three thousand barrels instead of one thousand in a day, we reduced our cost. It was along the line of smaller profits and a larger volume.

Q. And those conditions were general conditions? They did not affect you alone? The conditions which made those things necessary were general conditions?—A. General conditions in this business; yes, sir.

Q. Affecting everybody engaged in it?—A. Oh, yes; oh, yes.

Q. Now, these negotiations that you have referred to, and these purchases, what was the form that they took? Did you buy the properties?—A. We bought the properties. We became the owners of the properties.

12422 Q. That is, the Standard Oil Company of Ohio became the owner of those properties?—A. The owner of those properties at Cleveland, Ohio.

Q. How did you pay for them?—A. We paid for them in cash, or in the stock of the Standard Oil Company of Ohio, which was increased to enable us to have the additional shares. We gave the preference to the company selling out the business or plant. They took money or took the stock at par, which was its then value.

Q. Money or stock or both?—A. Or both.

Q. Or part cash and part stock?—A. Yes, sir.

Q. As they chose?—A. Yes, as they chose.

Q. You say you conducted a good many of those negotiations in connection with those purchases. Were there any coercive measures used by you in making them?—A. None whatever; none whatever.

12423 Q. Were they fair negotiations between parties representing their own interests?—A. Fair negotiations. And I may say for myself, that is the kind of negotiations I have always made, and no other.

Q. What led you to make these purchases, or your company? You were president of the company, were you not?—A. I was president of the Standard Oil Company of Ohio. The extension of our domestic business primarily from this point, which we regarded as the most favored point for the domestic trade.

Q. You say that was your principal reason, to enlarge——A. To acquire these businesses and this trade which we ourselves had been conducting since our entry into the refining business, and this local trade, retail trade, which we desired very much to extend.

Q. Each of these concerns had refining capacity?—A. Oh, yes.

Q. And they were marketing their products to the domestic trade?—A. And had trade themselves. I refer now to the trade through the country. I am speaking now about the home trade, as we say, through our own country—not the export.

Q. You had faith in the business, hadn't you?—A. Well, I had.

Q. Everybody did not share it?—A. Oh, no; oh, no; by no means.

Q. Take it just at that time, in 1871 and 1872, were there great differences of opinion as to the permanence of the oil trade and the ultimate success of it?—A. You see it was this way: All of us men, from the different lines of other business, had gotten into this, many of us from the beginning in quite a hurry, and the business in

12424 the beginning was so profitable that we kept putting our profits which we made into the plant. As a rule, our friends engaged in the refining of oil overlooked the importance of having cash, as we would say, to ballast the manufacturing interest. We deemed it very important and began to consider it of great importance in 1867 that we should recognize what seemed to us to be apparent, that we could not continue always at this rate of constructing refineries; that there would come the hard times——

Q. The reaction?—A. The same as we get in overbuilding blast furnaces, or in any department of our business here in this country, where we go so rapidly. And not satisfied with that effort to increase our capital, you see three years later we added, and added still more.

Q. Directing your attention to this, Mr. Rockefeller, as to whether the oil business, looking not at you now or at your concern but looking at the business as a business, was a permanent business at this time, whether it had unstable elements, as to whether there were great differences of opinion about its stability and permanence. I am talking now of the period of 1870, 1871, and 1872, and along at that

time.—A. There was a general discouragement, I think, with many people engaged in this refining business. There was a consciousness widespread that either we would have to get a larger demand for oil, stop the building of refineries, get a larger production, or something else. It was an embarrassing situation, or beginning to be, for many at that time. It was generally understood that we had foolishly gone on and overbuilt, to the detriment of our refining business.

12425 Q. Was it considered a business of unusual risks at that time?—A. It was always considered a business of unusual risks. It was so considered then, and with all the improvements which we have been able to incorporate in the nearly fifty years since those early days, it is a very hazardous undertaking to-day, and not to be classed with the stable businesses of banking or some of our railroad building or other enterprises.

Q. Was that more acutely so in those days of the early seventies?—A. That was an acute stage, certainly.

Q. Was the art of refining in its infancy at that time?—A. Progressive steps had been made since the very early sixties, but it was, we may say, comparatively speaking, looking back from this point of view, and further from the years immediately following. It was in its infancy. We have been steadily progressing in all the years that have followed.

Q. Mr. Rockefeller, you have stated to us that as you acquired these properties, the sellers had the preference of cash or stock in the Standard Oil Company of Ohio in payment. What proportion of them did you find preferred cash to the stock of the company?—A. I do not know that I could state the exact proportion, but possibly half of them took cash and half the other way.

Q. Of course I do not expect to pin you down to an exact recollection.—A. The general preference was for some good, hard cash that they could invest in something else.

Q. Now, I suppose you have heard of the South Improvement Company?—A. I have.

12426 Q. What, if anything, had you or your associates in the Standard Oil Company of Ohio to do with it? In its origin I am talking about.—A. I think that we took a small interest in the shares of the company. We had, I might say, nothing, at least very little or nothing, to do with any negotiations pertaining to it, as we (I refer to Mr. Flagler, my brother William, and myself) did not entertain the views of our friends over in Pennsylvania, who had the charter from Mr. Scott, I think, and who worked with Mr. Scott along the lines of such an idea as that, for the general settlement of some railroad troubles that were on.

Q. You referred to the Pennsylvania interests. What were the leading interests there that you spoke of—the refining interests?—A. Do you refer to the gentlemen who had to do with this negotiation?

Q. Yes.—A. I should say Mr. W. G. Warden, of Philadelphia, Mr. Logan, of Pittsburg, and Mr. Thomas A. Scott. They were hauling their oil over Mr. Scott's road, and they were the gentlemen

who had most to do, probably about all to do, with any negotiations respecting that company.

Q. And whom else do you recall as being active in what I will call the South Improvement Company movement?—A. I should say that the active persons in that scheme were made up of refiners from Philadelphia and Pittsburg in connection with Mr. Scott, and perhaps one or two officials in his freight department.

Q. Do you recall any in connection with the other railroads?—A. Any other?

Q. Yes. I have in mind Mr. Watson. It seems to me I have heard you speak of him.—A. Yes, Mr. Peter H. Watson par-
12427 ticipated with Mr. Scott more than with the refiners, and perhaps with the Commodore. He was a friend of Commodore Vanderbilt, and had something to do perhaps with railway construction, with one "Big" Smith, whom we used to see in those days. We called him "Big" Smith. He was a great railway builder.

Q. Now, Mr. Rockefeller, the leading men in the Standard Oil Company of Ohio at this time were yourself and your brother William and Mr. H. M. Flagler, were they not?—A. They were.

Q. Did you or your associates initiate that South Improvement scheme?—A. We did not. We did not.

Q. Did you have anything to do with the acquiring of the charter that they got?—A. We did not.

Q. Did you negotiate the contract with the railroads?—A. We did not.

Q. The interests that you have mentioned, in Philadelphia and Pittsburg, were fellow-refiners in the same business, were they not?—A. They were refiners in the same business.

Q. Were they the large Pennsylvania interests?—A. They were the largest Pennsylvania interests, and allied with Mr. Scott in the freighting scheme, in competition with us.

Q. Did they come to see you about it and confer with you about it?—A. They did.

Q. What position did you take about it, from the beginning?—A. We did not share their views as to the plan. We so frankly stated to them, and more than once.

Q. Did you have any faith or confidence in the practicabil-
12428 ity of such a plan?—A. I shared the views which my associate, notably Mr. Flagler, had very pronouncedly, that it was not a scheme which we ourselves would care for.

Q. You took an interest in the matter?—A. We took an interest.

Q. Now, why did you take that with the attitude that you had toward it?—A. In order to come to something like a correct understanding as to how we would be influenced, it must be remembered that Mr. Thomas A. Scott, the then potent factor in the Pennsylvania road, was not to be disregarded by any means by railroads or by shippers. Mr. Scott, and I might say also our friends whose names I have mentioned, were very enthusiastic about the bringing about of an adjustment of the divisions in railroad traffic, and that

was a scheme that they were wedded to. We did not wish to break with these gentlemen. We especially did not wish to break with Mr. Scott. We assented, not having confidence, and most plainly stated these things, notably to Mr. Warden.

Q. Were you at any time, in the very beginning of it, a controlling interest in the matter?—A. We were only a minority interest. Mr. Flagler, Mr. William Rockefeller, and I were subscribers; I do not remember the amount, but it was, I should surely say, a decided minority.

Q. Well, the Standard Oil interests were in the minority; you remember that?—A. I should say so.

Q. Do you recall whether any stock was ever issued?—A. I have no recollection about it. I do not have any idea that I ever
12429 saw a share of that stock. But I could not say positively.

Q. Well, the scheme, whatever it was, failed, Mr. Rockefeller?—A. The scheme never went into operation. There was never any business done under the South Improvement Company. That was well understood at the time.

Q. Can you say from your recollection that the stock never was issued, and no money ever paid on it?—A. I believe that it was never issued.

Q. And no money ever paid on it?—A. And no money ever paid.

Q. Is that your best recollection?—A. That would be my recollection.

Q. Now, as I understand you, that was the result that you expected, was it not?—A. It was the result that Mr. Flagler and I, with my brother, expected. But we deemed it better not to break with the powerful Mr. Scott, and not to disregard the wishes of the large refining interests there who were so anxious to bring it about.

Q. Well, you take these refining interests, Mr. Rockefeller, and the people connected with the railroad, they believed in the scheme as a good one for the oil business, did they not?—A. Oh, they did believe that it was a good thing. They were wild over the idea that they were going to redeem all the freight traffic and the producing business and the refining business and everything else in connection with the oil business. Our dead friend, Mr. Warden, notably among the refiners, was very enthusiastic over that idea.

Q. That that scheme was for the good and the benefit of
12430 the oil trade in all of its departments, producers and refiners, and the transportation by railroads?—A. Just so.

Q. Was it urged upon you as a good scheme?—A. A popular scheme, that would benefit everybody connected with it. We were not seeking to make the price of crude oil less; we were not seeking to ask the transporter to draw the oil for nothing; and in return it was hoped that the poor refiner would be recognized fairly. That was what we sought. That was the idea of those gentlemen who were the enthusiastic leaders in it.

Q. But you and your associate never believed in its practicability?—A. We did not think it could be worked out.

Q. At this time had these Pennsylvania refiners whom you have mentioned, Warden, Frew & Company and the others, any relations of interest with you whatsoever?—A. Oh, none whatever.

Q. I mean with you or with the Standard Oil Company of Ohio.—A. None whatever. We were competitors.

Q. There was no relation of common interest between you in any business?—A. Oh, none whatever. Our interests were entirely distinct, and we were competitors in the business in every sense of the word.

Q. The South Improvement scheme proved very unpopular, did it not, Mr. Rockefeller?—A. Very, indeed.

Q. It aroused great opposition?—A. It did, yes, sir.

Q. And with what result? It was abandoned?—A. Oh, it was abandoned at once, right away. The exact time of that I could not state.

12431 Q. The feeling and opposition to it was on the part of the oil interests in Pennsylvania?—A. Yes, sir.

Q. And it grew all at once into a very marked opposition?—A. Oh, very pronounced, yes. It did not take our good friends down there, who produced the oil, very long to arouse themselves on any subject. They had the characteristics of miners the world over. That was the case.

Q. And there was a great stir and the scheme was abandoned?—A. Oh, yes.

Q. In connection with the opposition to it, did there come into existence what is known as a producers' union? Do you recall that?—A. I recall that there was a producers' union?

(An adjournment was here taken until the morning of Thursday, November 19, 1908.)

12432 ROOM 508, CUSTOM-HOUSE, NEW YORK CITY,
Thursday, November 19, 1908—10.30 a. m.

The hearing was resumed before the special examiner, Hon. Franklin Ferriss, at the above time and place.

Present: On behalf of the petitioner, Mr. Frank B. Kellogg, Mr. Charles B. Morrison, Mr. J. Harwood Graves. On behalf of the defendants, Mr. John G. Milburn, Mr. Moritz Rosenthal, Mr. John S. Miller, Mr. Chauncey W. Martyn, Mr. F. L. Crawford, Mr. Walter F. Taylor, Mr. Douglas Campbell, Mr. W. Cleveland Runyon.

JOHN D. ROCKEFELLER, recalled, and his direct examination resumed, as follows:

By Mr. MILBURN:

Q. Mr. Rockefeller, I was asking you yesterday about the uncertainties of the oil business in the late sixties and early seventies, and you mentioned certain causes of the uncertainties that there were, and now I would like to call your attention to whether the uncertainty in connection with the raw material, the crude oil, had a bear-

ing.—A. It had, of course, a very important bearing, not only in the early history but ever since, and it must always continue so, so long as we do not know when the supply may give out, in which event these properties created for the refining of the oil are rendered comparatively valueless.

12433 Q. In the period to which I refer as the late sixties and the seventies, was the area where oil had been discovered and where it was produced very limited?—A. Yes; it was in a very small area, comparatively.

Q. Can you indicate that a little closer?—A. I do not think that I could give the length and breadth of that section.

Q. Was it confined to one or two counties in Pennsylvania?—A. I think to Venango County largely; that it did not go over into some of the adjoining counties I could not surely state. I do not particularly recall just the boundaries of that production.

Q. But in those earlier years of the seventies there had been no discoveries of oil of any consequence outside of that region in Pennsylvania, had there?—A. That would be my recollection. I am quite certain that we did not draw our supplies for our refining from any other field.

Q. Taking the conditions as they were during those years, just as they existed, did they import into the business of refining oil a serious element of risk and uncertainty?—A. Oh, it could not be otherwise; it could not be compared to other businesses, of manufacturing and other undertakings, where we could know about our source of supply of the raw material, and the construction for the refining of the oil could not be utilized for other purposes.

12434 Q. Was that a fact realized and appreciated at that time?—A. Oh, it was a fact that caused the investors in the refining business always apprehension, anxiety; it could not be otherwise, and especially on account of the haste to increase in the earlier days. The refiners were investing so much of their money in plant. To be left with nothing but the plant, and the oil giving out, was of course very naturally causing anxiety, apprehension.

Q. At that time, Mr. Rockefeller, is it the fact that at that time wells would run and give out?—A. Oh, certainly. That process obtained from the beginning of the history of oil—a flush production, then a general decline, and finally practical abandonment.

Q. Was that true at that time of limited districts, that there would be oil produced, and then the flow decrease and finally cease?—A. Oh, yes; we had what was called flush production in the new fields, and some of them were very short lived.

Q. I return now to the subject which we were considering when we adjourned last night. Do you recall in connection with the South Improvement agitation that what was called a producers' union was formed?—A. Perhaps it was lated in the year that a producers' union was formed. I do not recall the exact date. It was along later, after the excitement of the South Improvement had subsided.

Q. What was that union, of whom was it composed?—A. It was composed of those engaged in producing the crude oil and embraced perhaps quite a large proportion of the production.

12435 Q. They were the men who controlled the raw material of the refining business?—A. They were.

Q. Did that lead to the formation of a refiners' association?—A. We followed along soon after that, or about the time, with an effort to have an association of refiners.

Q. And was there one formed?—A. There was.

Q. And of whom was it made up?—A. It was made up of the refining interests at the different refining points of the country.

Q. Why was it formed?—A. I may say that the refiners were desirous of having their supply of the raw material, and the refiners generally the country over were desirous of having those who produced the oil rid of the feeling that we were in any wise antagonistic to their interests, and it was with a view of moving along, and another thing was the desire of being sure to get their raw material to work—that is, so that they should not feel that they were called upon to build refineries to do the work which we as refiners desired to do.

Q. The men in the refiners' association had a common interest in the securing of the crude oil they required in their business?—A. Oh, yes; we had a common interest. Of course our business was dependent upon securing this supply of crude oil, and we desired most pleasant relations with the producers, and we desired undoubtedly to have them realize that we were friendly to their interests, and only so.

Q. During this year, 1872, what were the relations between those branches of the industry, the production on one hand

12436 and the refining on the other. Were they in a disturbed condition, or what?—A. Oh, yes; they had been in a disturbed condition for a period of time. The producers undoubtedly came to understand, as they had more contact with the representatives of the refiners, as I have intimated, that the interests should be moved together—that is, that there should be no antagonism—there should be none—between the producer of the raw material and his best customer, the refiner, of course.

Q. Now, did the two associations come into relations or negotiations with each other?—A. Yes.

Q. Did that result in an agreement between the two, a copy of which I have shown you, as annexed to the complaint or petition of the Government in this case as Exhibit 1, dated December, 1872?—A. Yes, sir. They did come to an understanding and agreement.

Q. You recall that fact?—A. Yes, sir; I do.

Q. Have you recently, by examining this agreement, refreshed your recollection as to its contents?—A. I have, yes, generally.

Q. What was the object and purpose of that agreement?—A. The purpose was to secure as high a price for the crude oil as possible.

Q. And with reference to the business conditions?—A. Well, the desire was—the effort was—to introduce an element of greater regu-

larity, greater stability, into this business, which had been just going up and down in that way, with all the excitement of the extreme fluctuations, hitherto.

12437 Q. You have said to us that the producers' association, as you recollect, practically included all the men, or the great bulk of the men, engaged in production?—A. The exact percentage of the producing interest which was represented I could not state. It was a large percentage. They so represented to us that they could embrace a very large part of the producing interest.

Q. And the same is true of the refiners' association as to the refiners?—A. Yes, generally speaking so; a very large representation. I could not say that every refiner in the country, but a very respectable majority, presumably, of the gentlemen engaged in the refining business, was in the association.

Q. I notice from the contract that one of the features of it was the fixing of a price to be paid for the crude oil; that it was conditionally to be $5 per barrel of 42 gallons each at common points. You recall that?—A. Yes; I do.

Q. What was the history of that agreement? What became of it?—A. I could not state how long it was in existence or said to be operative, but the high price for the crude oil resulted, as it had always done before and will always do so long as oil comes out of the ground, in increasing the production, and they got too much oil. We could not find a market for it.

Q. Then the operation of the agreement was that it stimulated an overproduction of oil, as I understand you?—A. Certainly.

Q. And more than the refiners could take and find a market for?—A. At such prices; yes, sir. I don't know whether it is

12438 important to state that of course any who were not in this association were undertaking to produce all they possibly could; and as to those who were in the association, many of them men of honor and high standing, the temptation was very great to get a little more oil than they had promised their associates or us would come. It seemed very difficult to prevent the oil coming at that price.

Q. Was it the fundemental idea of this arrangement to have some relation between the production and the market—the demands of the trade?—A. We, of course, on our part, who sought a market for the refined oil, could not hold out to them inducements that we could take care of more than the people would buy from us. There was a limitation beyond which we, as refiners and merchandizers in the oil, could not go. We were their servants in passing on to the consumer the refined product, and the limitation was there in what we could at that time sell.

Q. Then such an overproduction could only have one result, Mr. Rockefeller? I understand that to be your testimony?—A. It could only have one result.

Q. And what was that?—A. And that was that the price could not be maintained, because the production was too much increased.

Q. Men would sell for less than the price that had been fixed in the contract, to get rid of their oil?—A. Oh, yes; that sort of thing which always takes place—which is very likely to take place—in any such arrangement, even as to those in the arrangement, it might
12439 be. I will not speak definitely of that, but there is a common experience of the fear that the price will not be maintained, and some men beginning to break over in one way and another; so that distrust, of course, was naturally created.

Q. What would your recollection be as to the arrangement being short-lived or not?—A. I should say short-lived; not long continued.

Q. In 1872 and 1873 was Long Island a refining point?—A. Yes; Long Island here in New York.

Q. Do you remember a concern known as the Long Island Refining Company?—A. I do.

Q. What was it? Where was it located?—A. It was a refinery property, with warehouse property.

Q. Located where?—A. Long Island City I think we called it, across from the upper part of the city.

Q. How would you characterize its facilities; that is, as a seaboard refinery, with seaboard facilities?—A. A seaboard refinery, yes; the docks were accessible to the ships, which carried the oil to all parts of the world, with good water facilities, good deep water.

Q. So it was, as you say, a refinery with dock facilities?—A. Yes; it was a dock property and a refining property; it combined the two.

Q. Did you have negotiations with that concern in 1873?—A. We did.

Q. And what was the result?—A. We purchased the refinery property and the dock property.

12440 Q. For what purpose did you make that purchase?—A. We purchased the dock property, the warehouse property, to be used for the general warehousing business, handling of the refined oil which we shipped to Europe, or which we sold to European buyers of the oil.

Q. I will ask you right there as to the nature of the dock property of this company, if it was particularly good or extensive? Will you just give us an idea as to that?—A. Yes; it was a very extensive dock property, and we regarded it as a very valuable acquisition.

Q. And that was a property that you could use in the handling of your Cleveland oil as it came to this port for export?—A. That is what we did do; yes, sir.

Q. Had you at this time any refinery facilities at the seaboard?—A. I should say that this was the beginning of the acquisition of refining interests at the seaboard.

Q. Take a refinery at the seaboard, Mr. Rockefeller, how did it get its raw material, its crude oil, in those days?—A. In those days it got its crude oil over the different railroads reaching into the oil regions. There were a number of railroads.

Q. Was the seaboard a naturally advantageous point for refining oil for export?—A. It was.

Q. And was it part of your plan, then, at this time to extend and develop your business to the refining at the seaboard?—A. It was our plan to buy that refinery and pay for it, and then, as the days went by, let developments determine any further steps. That was chiefly for the export of oil, and it was to be so used. I mean by that, it did not reach our interior, local, or western distribution of oil.

Q. How much of a refinery was this?—A. As to the size I could not definitely say. It was a very respectable refining concern, doing a very considerable refining business.

Q. With a domestic trade in this locality, as well as an export business?—A. There was more or less of domestic trade about here, yes.

Q. And when you acquired the factory you utilized it for those purposes?—A. We did; yes, sir.

Q. And it extended your dock facilities very materially for your export business?—A. Oh, yes; we have used it ever since, I believe.

12441 Q. Do you recall the Devoe Manufacturing Company?—A. I do.

Q. What was it, where was it located, and what was its business?—A. I should say that the Devoe was on Newtown Creek, and its business was——

Q. Where is Newtown Creek?—A. It is on the other side of the East River, and up one of those upper creeks called the Newtown Creek. I should say the Devoe was there.

Q. That is, on Long Island?—A. On Long Island; yes.

Q. Where was the Long Island Refining Company with reference to Newtown Creek? That was in another part of Long Island?—A. It was right out upon the East River. I should say that the Devoe concern, while reaching the tide water, having facilities for loading there, was a little up this creek or inlet—a good place for the work, but not in the open East River, if my memory served me correctly.

Q. What sort of a concern was it; what was its business?—A. The Devoe concern was engaged in the putting of oil in cans for the canning trade. It had a very desirable trade in Europe, as well as their domestic trade. They had a very good reputation in Europe, and obtained very remunerative prices for their well-established brands of oil.

Q. Had they a refinery?—A. I am not certain that they had also a refinery. I should say that they got others to manufacture for them the oil which they put in cans, but in reference to that I am not just certain.

Q. They were buyers of refined oil, putting it up in form for export and the domestic trade?—A. Not necessarily always

12442 buyers. They might have made arrangements with refiners

to use their refinery or refineries for the production of their regular supply of those brands of oil, as well as purchases.

Q. Will you explain about these cans. You say that was the special feature of their business?—A. These cans, as you know, are small, two of them put in a box, and those boxes of oil were then beginning to find their way into the eastern sections, a little more readily in some sections, being a small package and easier to transport on the backs of mules and in the other ways of transporting in some of those far-off eastern markets.

Q. You mean by the eastern, the Orient?—A. Yes; I mean across on the other side—the export market.

Q. What sort of a can was it?—A. It was a good strong can, made of tin, and the Devoe Manufacturing Company, I should say, made that can themselves, and came to produce it at a minimum of cost. And they had, as I say, a very desirable trade for the brands which had been established.

Q. I wanted to get at that fact; they made the can themselves—they were can manufacturers?—A. I think they were. They may have also purchased cans of others. I could not speak so definitely as to that.

Q. If your recollection serves you right, they had an establishment in which they made these cans?—A. Yes; that is my impression and my belief.

Q. In those days did all oil that was exported go abroad in
12443 packages; that is, in barrels or in cans?—A. I think it all went either in barrels or in these cans. We called it the case oil trade. It was known as the case oil department.

Q. Were these cans a specialty with the Devoe Manufacturing Company?—A. They were. They had certain brands for which they had built up a great reputation in the Far East.

Q. And you had negotiations with them?—A. We had.

Q. And purchased the concern?—A. Purchased an interest in the concern. I should say we did not purchase the whole concern at the beginning; later the balance.

Q. Do you recall what you purchased in the beginning?—A. I should say in the neighborhood of a half.

Q. What was the object of that purchase?—A. The object of that was to extend our markets, to increase our chances to sell the oil. That was another form, as we regarded it, in which to take up that department of business.

Q. It was diversifying as well as extending you business?—A. It was.

Q. Do you recall the firm of Chess, Carley & Company?—A. I do.

Q. What was it, and where was it located?—A. It was located at Louisville, Kentucky.

Q. Was it a copartnership, or what?—A. Chess, Carley & Company at that time was a copartnership.

Q. What was its business?—A. They had a refinery, and they had a large domestic trade in the refined oil.

Q. In what region?—A. I should say in the southern and southwestern sections.

Q. Where was its refinery located?—A. I think it was lo-
12444 cated at Louisville.

Q. Did negotiations arise between you and them in 1873?—A. Do you mean me personally?

Q. Oh, no.—A. The negotiations were conducted in 1873 and a purchase consummated.

Q. What did you purchase at that time?—A. We purchased that fractional interest, whatever it was, in that business.

Q. Do you recall what it was at that time?—A. I should say it was about one-half.

Q. That was an interest in that copartnership?—A. In that property, that refining property.

Q. What was your object and purpose in making that purchase?—A. This firm had a large trade, which they had worked up with great industry, skill, and ability, and this purchase brought us into a relation of securing that as an additional outlet for our refineries, which we were constantly seeking.

Q. This purchase extended your markets and the territory where oil was sold?—A. Yes; it extended our markets. It was along the line of increasing our sale of the refined oil.

Q. And that was the object of the purchase that you made?—A. That was the object of the purchase.

Q. Do you remember the Imperial Refinery, at Oil City?—A. I do.

Q. Who owned it?—A. Capt. J. J. Vandergrift, John Pitcairn—they were the large owners and perhaps they owned it all. If there were others they were privately related. I do not surely know that there were more than those two gentlemen.

12445 Q. Describe it and its business generally.—A. It was located just up the Allegheny River above Oil City, a mile or a mile and a half perhaps, located on the river, accessible for shipping, and had a large modern refinery. That was along at the time of the beginning of the larger and more important constructions. More and more as the time went by it was apparent that that class of refineries—the better, the larger, the more economical—were the ones that must be constructed.

Q. And it was known as the Imperial Refinery, was it?—A. The Imperial Refinery; the Imperial Refining Company, of Oil City.

Q. Did you have negotiations in 1874 in regard to the purchase of that property or an interest in it?—A. We did; I should say early in 1874.

Q. Did you purchase it?—A. We did.

Q. The whole or a part?—A. We bought the whole of it.

Q. Acquiring the capital stock of the company?—A. I should say that we bought the plant, though from recollection I can not surely state just how it was organized. I could not state whether we bought the plant, the physical property, or whether it was a corporation. I should say it was the refinery property.

Q. You recall, as you have told us, the purchase of the property, and your recollection is that you acquired the physical property?—A. I should say so.

Q. Do you remember that three or four years later your interests organized the Imperial Refining Company (Limited), to take
12446 over that property?—A. That came later; whether three or four years, I could not state the exact date.

Q. No; but you do recall that the first step was you acquired the physical property in 1874?—A. Yes.

Q. And then later a corporation or a company was organized, with a capital stock, and the property transferred to that corporation?—A. Just so. The Imperial Refining Company (Limited) was probably the title.

Q. Later I will call your attention to what is known as the trust agreement of 1882, in which the Imperial Refining Company (Limited) is mentioned as one of the companies.—A. Yes.

Q. Is that the company which was organized after the acquisition of this property in 1874, to take over the property and its business?—A. It was.

Q. What was the object of that purchase in 1874?—A. We got there the chance at the export business; that was largely our acquisition in trade that we were looking for. That was located in the oil regions, with direct shipment to seaboard. That was for the purpose of the export business.

Q. Was that establishing yourselves as a refining interest right at the oil fields?—A. Certainly.

Q. And was that the first establishment or acquisition of a refinery so situated, that you can recall?—A. I think this was in the first part of 1874. I should say so.

Q. So at this time, in 1874, you had your refining plants at Cleveland, and you had acquired a refinery at seaboard, and by this purchase you established a refining interest where the
12447 crude was produced?—A. Yes; right in the regions.

Q. Calling your attention now to a purchase in the latter part of 1874. Who were Charles Pratt & Company?—A. Mr. Charles Pratt and Mr. H. H. Rogers.

Q. And in 1874 what was their business?—A. They were refining oil over in this same neighborhood, the Brooklyn way there.

Q. Can you locate that? We have Newtown Creek now and——A. Well, I should say that the Pratt concern were up in that neighborhood, Newtown Creek.

Q. On the Brooklyn side, on the East River, is that right?—A. Brooklyn side?

Q. Yes; on the East River.—A. Yes; I should say so.

Q. Now, I interrupted you. If you will, go on and describe just what their business was.—A. It was a business of refining oil, and they gave special attention to some particular brands of refined oil, which had at the time a very good reputation, and which brought them a very satisfactory return. I do not recall all those brands of

oil, but they had given much attention to cultivating the domestic trade. Among other specialties in oil they had a brand known as Pratt's Astral, which was a very well known and popular brand for a long time. Shall I state further as to their business?

Q. Yes.—A. They were also engaged in putting up oil in cans. They had a trade in the East.

Q. In the Orient?—A. In the Orient, in the East, yes; in the case oil, a good business. They were prosperous people.

Q. Had they dock properties?—A. I think they had dock
12448 properties also.

Q. Warehousing facilities?—A. Warehousing facilities; loading the ships at their property, being well equipped. They had also a great deal of cash capital. They were prosperous people.

Q. Who were Warden, Frew & Company? Who made up the firm?—A. Warden, Frew & Company were located in Philadelphia. The firm was made up of William G. Warden, of Philadelphia; Major Frew, of Pittsburg, and Charles Lockhart, of Pittsburg.

Q. And what was their business?—A. They had a large refining establishment at Philadelphia. They had dock facilities there also; and in addition, at Philadelphia, they were engaged in the business of canning oil. They had also other oil possessions, but I think that this, perhaps, covers roundly the interests which they had at Philadelphia.

Q. Do you know what was the company in Philadelphia?—A. The company, I suppose, was Mr. Charles Lockhart—if you ask who the other partner——

Q. I was thinking more of what was the relation of the Atlantic Refining Company to them?—A. The Atlantic Refining Company, of Philadelphia, was owned by these gentlemen.

Q. And had they a refinery of their own at Philadelphia in addition to that, or was that the refinery at Philadelphia?—A. No; that was the refinery, the Atlantic Refining Company.

Q. These gentlemen whom you have named owned, as I understand you, the Atlantic Refining Company?—A. Yes, sir.

Q. And that was the company that had the refinery at
12449 Philadelphia?—A. Yes; and also the canning business, with its properties. In the refinery property they had also a canning establishment, putting the oil up into cans.

Q. And that was at Philadelphia?—A. And that was at Philadelphia.

Q. Did they own or control or represent one or more refineries at Pittsburg?—A. They did.

Q. Was one of the companies which they owned or represented known as the Standard Oil Company of Pittsburg?—A. It was, as I remember it.

Q. Had you anything to do with that company prior to the transaction that I am coming to now?—A. Nothing whatever.

Q. You had not organized the Standard Oil Company of Pittsburg, or of Pennsylvania, whichever it was called?—A. We had nothing whatever to do with it, no connection with it in any way.

Q. So some people in Pennsylvania had hit upon the name of Standard Oil Company, and you had hit upon it in Ohio?—A. We had nothing to do with the Standard Oil Company of Pittsburg in any way previous to this time.

Q. Was there another refinery there that these gentlemen owned or controlled known as the Model Oil Company?—A. They had a number of refineries. The Model was another; yes.

Q. At Pittsburg?—A. Yes.

Q. Now to go back, did you in the latter part of 1874 have negotiations with Mr. Pratt and Mr. Rogers as to the purchase of
12450 their works and property that you have described?—A. We did.

Q. Were Charles Pratt & Company a corporation?—A. I think they were.

Q. With capital stock?—A. With capital stock.

Q. And did you complete that purchase?—A. We did.

Q. And thereby acquired the property and business of Charles Pratt & Company?—A. Their entire property and oil business.

Q. Do you remember that what you acquired there was the capital stock?—A. The capital stock; that is my recollection.

Q. Did you also in the latter part of 1874 have negotiations with Warden, Frew & Company?—A. We did.

Q. With Mr. Warden and the other members of the firm?—A. Mr. Warden and Mr. Lockhart chiefly.

Q. In what did those negotiations result?—A. They resulted in the purchase of their refineries and business, docks, and canning establishment in Philadeplphia.

Q. And in Pittsburg?—A. And in Pittsburg.

Q. That was the time you acquired the Atlantic Refining Company?—A. It was.

Q. You acquired then the stock of the Atlantic Refining Company?—A. We did.

Q. And the properties?—A. We did.

Q. In 1874?—A. We did.

Q. And that is the Atlantic Refining Company that exists today?—A. I think it is the same.

Q. It has gone on through all the years?—A. Yes.

Q. And is the Atlantic Refining Company named in the trust agreement to which I have referred?—A. It is.

Q. So that was the time, in your negotiations or as the result of your negotiations with these gentlemen, that you acquired the property and capital stock of the Standard Oil Company of Pittsburg?—A. It was.

12451 Q. And of the Model Oil Company, of Pittsburg, its refinery and property and capital stock?—A. Yes, sir; it was.

Q. And what other refineries they had or represented there at Pittsburg?—A. The Brilliant——

Q. I say, whatever there were that they had?—A. Yes; all. There were others. The Brilliant was one, and there were still others—all the refining interests which they owned and controlled there.

Q. In Philadelphia and at Pittsburg?—A. At Philadelphia and Pittsburg.

Q. So that you acquired at that time, by this purchase, the property of Charles Pratt & Company and the capital stock of their company?—A. We did.

Q. What was the aggregate value of the property you acquired through these transactions with Charles Pratt & Company, Warden, Frew & Company, and Lockhart & Frew which you have described?—A. Including all those Pittsburg interests?

Q. The Pittsburg interests, the Atlantic Refining Company property, the Philadelphia property, and then the property of Charles Pratt & Company?—A. A total of about $3,000,000.

Q. What was the object and purpose of those purchases?—A. The object and purpose of those purchases was to extend our export business at those favorable points, and also to secure the valuable trade in specialties, of the cans, and also those special brands of oil for the domestic as well as the foreign trade.

Q. Philadelphia was a seaport refining point?—A. Philadelphia was a seaboard refining point, of course, of great importance.

12452 Q. And that was the first establishment of the Standard interests at that seaboard point in the way of refining?—A. It was.

Q. Pittsburg was another considerable refining point at that time?—A. Very important.

Q. And what were the advantages of its location as a refining point?—A. It was on the way from the oil-producing section to the seaboard, a shorter haul.

Q. In proximity to the crude?—A. In proximity to the crude, by the Allegheny River, as well as other means of transportation favorably located for export, and we also secured local business which could be done advantageously from Pittsburg.

Q. Pittsburg was a point favorably situated for the refining of oil and had developed as such?—A. It had. I think that Pittsburg was one of the first points that refined the oil.

Q. And this was, in the extension and development of your business, your first establishment there?—A. Just the same.

Q. My attention is called to having omitted one small purchase made in 1872. Do you remember the Smith's Ferry Oil Transportation Company?—A. There was a little interest there; yes, sir.

Q. What was it, and its location?—A. It has passed from my mind very much. I should say there were some pipes. It is so long since I have heard about it.

Q. I will pass that. We will come to it later in another form.—A. I am a little hazy in my mind at the moment, there are so many of those.

12453 Q. I think I have got it out of its location, too.—A. I know there was such a place as Smith's Ferry. It was a refining or producing place in the early days.

Q. Now I come to your dealings in 1875 with the firms of Porter, Moreland & Company and Bennett, Warner & Company, and will ask you what those firms were, where they were located, and what their business was?—A. They were located at Titusville. They were refiners of oil, important concerns.

Q. Who were Porter, Moreland & Company?—A. Mr. Porter, Mr. Moreland, and Mr. Archbold.

Q. John D. Archbold?—A. John D. Archbold.

Q. And Bennett, Warner & Company?—A. Mr. Bennett and Mr. Warner. I do not at this moment recall the name of the company, the other member of the firm.

Q. These two firms had refineries at Titusville?—A. They had.

Q. Did you have negotiations in 1875 with those two firms with reference to the purchase of their refineries and property?—A. We did.

Q. And were they consummated?—A. They were.

Q. What was the object of those purchases?—A. The still further progress and extension of our regular business, establishing ourselves there in the midst of the producing field.

Q. Were those the first purchases in Titusville that you remember?—A. I believe they were.

Q. Those, you say, were copartnerships?—A. I should say they were.

12454 Q. Do you remember the form which that transaction took, how the purchase was made? Let me help you with your memory. Do you remember in connection with it the organization of the Acme Oil Company?—A. Oh, yes; we organized the Acme Oil Company and purchased the properties.

Q. Will you give me the persons who organized the Acme Oil Company?—A. I should say Charles Pratt, Mr. Warden——

Mr. ROSENTHAL. Warden, Frew & Company?

A. Yes; Warden, Frew & Company, Charles Pratt & Company, Mr. William Rockefeller, and Mr. Archbold; I should say those men.

Q. Mr. Bennett?—A. Mr. Bennett.

Q. Those, according to your recollection, are the people who organized the Acme Company?—A. Yes, sir.

Q. And then was the property of those two firms that you have mentioned, Porter, Moreland & Company and Bennett, Warner & Company, transferred to the Acme Oil Company?—A. That is my recollection.

Q. Purchased by the Acme Oil Company?—A. Purchased by the Acme Oil Company.

Q. And that is the Acme Oil Company which is referred to in the trust agreement?—A. The same; yes, sir.

Q. When was it that your attention was particularly directed to lubricating oil?—A. I should say it was 1876 that we began to be interested in lubricating oil, or possibly a little later than that.

Q. 1876 or 1877?—A. Soon thereafter; 1876 or 1877, along in there.

Q. What are the relations of the manufacture of lubricating
12455 oils to the ordinary refining?—A. The lubricating oils are made to a quarter or less extent from the by-products, after the production of the refined oil, from the heavier products of the distillation.

Q. And is the refined oil also itself used in the making of the lubricating oils?—A. The lubricating products were produced more or less out of the last part of the distillation of the crude oil; the first part being a light product, the refined oil coming after, and these heavier products coming last in the process of distillation.

Q. So that, naturally, they are affiliated businesses?—A. Directly, yes; they are.

Q. Now, when you took up the question of lubricating oils, did you acquire any lubricating plants in the years that you have mentioned? I will specify 1877.—A. I should say we did, in 1876 or 1877.

Q. Do you recall the American Lubricating Oil Company?—A. I do.

Q. Where was it located?—A. I think it was located in Cleveland, if my memory serves me right.

Q. And what was its business?—A. It was generally a lubricating business, the manufacture of lubricating oils, largely from these heavy products, and their sale.

Q. And did you enter into negotiations for the purchase of that business?—A. We did.

Q. If I state to you that it was in the year 1877 or 1878, would that conform to your recollection?—A. I should say so.

Q. Do you recall the Mica Axle Grease Company?—A. I
12456 recall the name; yes, sir.

Q. Do you recall what its business was, and where it was located?—A. This general character of business I remember. Those were smaller affairs.

Q. Do you recall that it was in the lubricating business in Pittsburg?—A. Yes; they had a little business there, or a considerable lubricating plant.

Q. Do you recall where it was, whether it was in Pittsburg or Cleveland?—A. I could not tell you at the moment just where it was located.

Q. Did you acquire by purchase the properties of the Lubricating Oil Company, whatever it was—that is, whether it was a partnership or what not—and of the Mica Axle Grease Company?—A. We did buy such a concern.

Q. What was the object of those purchases?—A. Still further proceeding to secure a lubricating trade and establish ourselves.

Q. And the manufacture of lubricating oils?—A. Yes, sir.

Q. That was another diversification of the business, was it not?—A. Yes, it was; and fitted in with the disposition of those heavy products.

Q. I do not want to press your memory too much, but, more for identification than anything else, do you remember that shortly after that you caused to be organized the American Lubricating Oil Company, and it took over the property of the American Lubricating Oil Company to which you have referred and of the Mica Axle Grease Company to which you have referred?—A. Yes; those companies.

12457 Q. And the company referred to in the trust agreement is the American Lubricating Oil Company which was organized to take over those properties that you had previously purchased?—A. The same; yes, sir.

Mr. KELLOGG. I do not wish to enter any objection, but that looks a little bit like leading.

Mr. MILBURN. Yes. It was more to identify the particular company he has named there than anything else.

Q. I now want to bring your attention to the Empire Transportation Company transaction, and I will first ask you what the Empire Transportation Company and its relations were?—A. The Empire Transportation Company were owners of cars and transporters of oil, among other products, and upon the Pennsylvania road and connected with the Pennsylvania road.

Q. Controlled by the Pennsylvania Company?—A. As we understood, practically controlled by those Pennsylvania Railroad interests.

Q. As you say, in the first place it had a line of cars which ran over the Pennsylvania Railroad?—A. Yes.

Q. Do you remember what its name was?—A. The Empire Transportation Company?

Q. Yes.—A. The Empire Line, we used to call it.

Q. The Empire Line?—A. The Empire Line.

Q. What else did it own? I mean either itself or through companies connected with it.—A. It had gathering pipe lines in the oil regions. It was one of the earlier things that I knew about. It was acquiring pipe-line interests there.

Q. In any particular part of the oil regions?—A. I was
12458 not so familiar with the detail of the localities, but, generally speaking, they were reaching for the production wherever it opened up.

Q. Well, it owned or controlled gathering pipe lines?—A. Gathering pipe lines.

Q. What other business did it come to have?—A. It engaged in the refining of oil.

Q. Locate its refining places and interests.—A. It controlled the large Sone & Fleming refining interests, I should say on Newtown Creek, in New York, and it also had refining interests in Philadelphia.

Q. This Sone & Fleming was a refinery on Newtown Creek?—A. Yes, sir; a large refinery.

Q. Then there was a refinery at Philadelphia?—A. Also.

Q. So that this company was, either by ownership or control, a transportation company, having cars for the transportation of freight over the Philadelphia system?—A. A railway; yes.

Q. Did that include oil?—A. Yes; they also had cars to transport the crude oil in bulk.

Q. Cars to transport oil in bulk?—A. Yes, sir.

Q. It owned the pipe-line systems or gathering lines in the oil fields?—A. It did.

Q. And it came to be engaged in refining oil at Newtown Creek and in Philadelphia?—A. It did.

Q. The Empire Transportation Company was, as you have said, an interest of the Pennsylvania Railroad Company?—A. Yes.

Q. At any rate, you dealt with the Pennsylvania Railroad Company with respect to its matters, did you not?—A. The
12459 Empire Line, as I say, was dominated and controlled, as we understood it, by the Pennsylvania interests. I think the Empire Line gave its rates for transportation, as well as engaging in these other businesses—the Empire Company.

Q. Will you tell us what, say in 1876 or 1877, conditions came about by reason of those operations of the transportation companies between the railroads themselves or between you and the Pennsylvania Railroad?—A. Well, of course, the other railroads were disturbed. The refining interests were disturbed. They were transporting over the Pennsylvania system, and it made great trouble with the railroads—made great cutting of rates. This innovation, this line, Pennsylvania connection, engaging in the business of refining oil, caused a great trouble and a great loss of freight rates, cutting, etc.

Q. Through its pipe lines it had control of crude production to the extent of its lines?—A. It reached out to the source of supply, the wells, with these gathering lines. It loaded the oil into its tank cars, and then at the seaboard, at favorable locations, was refining the oil. The railroads not only were disturbed about it, but the refinery interests also were very much disturbed about it.

Q. The railroads—we will take up first that phase of it. You have named certain lines that had the bulk of the oil traffic. Was the Baltimore & Ohio also a line that had oil traffic?—A. To some extent it had traffic.

Q. And through these years did the railroad companies lay considerable stress on the share that each one of them got in this oil traffic?—A. It was very important, in order that they might secure paying rates of freight, that they should have some divisions of the traffic.

12460 Q. What was the relation of the railroads to each other, assuming for the purpose of my question that the main lines were the Lake Shore and New York Central on the one hand, the

Atlantic & Great Western and the Erie on the other, and the Philadelphia system on the other, and the Baltimore & Ohio? I ask you what relations between them would be affected by a Pennsylvania interest refining?—A. It caused great apprehension as to their retaining their traffic. They were very much concerned about it. They were very much in earnest. They took active measures to hold on to their pro rata of the business. Warfare ensued in freight rates.

(A recess was here taken until 2 o'clock p. m.)

12461 AFTERNOON SESSION.

JOHN D. ROCKEFELLER recalled and his direct examination resumed, as follows:

By Mr. MILBURN:

Q. You told us the attitude of the railroads with respect to the Empire Transportation Co[illegible]any situation. What did your interests do?—A. We presented the matter to our lines—and by that I mean the northern lines, and protested as well as to the Pennsylvania lines. What did we further do?

Q. What did you do with regard to your own shipments from your refineries over the Pennsylvania?—A. We stopped our shipments over the line.

Q. You sent them by other routes?—A. Sent them by other routes.

Q. What was the objection that you made?—A. The objection that we made was to the Pennsylvania Railroad Company or its interests engaging in the refining business. We did not know where we stood.

Q. You mean by that that their oil and your oil was passing over their railroad?—A. We had been shipping over their railroad.

Q. Amongst others?—A. Amongst others. They were proceeding in a discrimination in that form against us.

Q. They were shipping at the same time practically their own oil?—A. Shipping their own oil.

Q. So you refrained from shipping any oil over the Pennsylvania lines?—A. We did.

12462 Q. What followed along from that situation?—A. There was a cutting of rates. There was a war between the different transportation lines for the oil. That was the first thing that resulted.

Q. That was the situation that existed. The other railroad companies objecting precipitated a railroad war?—A. The other railroad companies were very desirous that we should be protected, because we were their shippers and they assured us that they would stand by us.

Q. Was there a good deal of bitterness in that war?—A. Oh, of course there was a good deal of feeling between the lines.

Q. When you refer to the northern lines, they were particularly the lines which protected Cleveland?—A. When I refer to the northern lines I refer to the Lake Shore and the New York Central as one

line, and the Atlantic road and the Erie Railroad as forming another line.

Q. And they were the lines which particularly supplied Cleveland with transportation facilities?—A. They were the railroad lines which we employed chiefly in transporting our oil to the seaboard from Cleveland.

Q. I do not know whether I asked you before, but did the fact of the association of the Pennsylvania Railroad with the refining interests introduce into the situation a factor which gave it a preponderance over other lines not so associated with the oil traffic?—A. It gave them an advantage.

Q. A material one?—A. Yes.

Q. Was that the cause of the attitude of the other railroads
12463 towards the Pennsylvania in that relation?—A. Certainly. They understood what was going on.

Q. Did negotiations subsequently ensue from this condition of war which existed?—A. Oh, yes; negotiations followed.

Q. Did you participate in them?—A. I do not remember how those negotiations began. What negotiations do you especially refer to?

Q. Well, which led to the purchase that was made at that time?—A. After our protests and after the withdrawal of our shipments negotiations were entered into by which we purchased the refining interests of the Empire Line.

Q. Go on; what else?—A. And we also acquired the gathering lines to which I have referred—the lines that gathered the oil from the wells in the different portions of the oil regions.

Q. Which were owned by the Empire Transportation Company?—A. Which were owned by the Empire Transportation Company.

Q. And what else was there in that negotiation in regard to cars?—A. The Pennsylvania Railroad Company acquired the cars from the Empire Line.

Q. Did you help it in that regard?—A. They organized a car trust, issued certificates, and we purchased those car-trust certificates.

Q. Who participated in those negotiations which resulted in that transaction?—A. Do you mean on the part of the railroad company?

Q. Yes.—A. I think that Mr. Scott was the central figure, and Mr. Warden and Mr. Flagler. I think that I also—I should say that we met Mr. Scott.

Q. Those were the parties who arranged this transaction growing out of the condition of things which you have described?—A. I think these were the parties.

12464 Q. Will you tell what the result was in the particular refineries that you acquired?—A. We acquired them, and thereafter we owned them.

Q. You have given them once, but just to have them in this connection give them again.—A. With this refinery interest at Philadelphia——

Q. That is the refinery at Philadelphia?—A. The refinery at Philadelphia. Just what the immediate step was in respect to Sone

& Fleming—I know that we bought the Sone & Fleming—that was the one at New York to which I referred. The only question is whether it was bought at the very time or a very little later.

Q. Was not this it (you can tell me whether it refreshes your recollection or not): That the Empire Transportation Company owned some interest (either controlling or not controlling) in the Sone & Fleming refinery at that time?—A. I should say that they did, but what part I do not know. It came in that way.

Q. And what you acquired in this transaction, besides the Philadelphia refinery, was the Empire Transportation Company's interest in the Sone & Fleming refinery?—A. Yes; whatever they had we took; but whatever that fraction was, I do not remember just the precise amount, if it was not all.

Q. And do you remember that whatever interest there was outstanding you acquired later?—A. Oh, we did acquire it later if we did not acquire it then. I am by no means certain but that it was all acquired then and there, but as to that I can not be absolutely certain.

12465 Q. Is that concern which you have spoken of, the Sone & Fleming, in which you acquired an interest, as you have described at this time, referred to in the trust agreement as Sone & Fleming Manufacturing Company (Limited)?—A. It is.

Q. Is that the concern?—A. It is the same; yes, sir.

Q. It is said in the petition in this case that this situation as to the Empire Transportation Company and the rates which during that war period you obtained were obtained by you to crush out the competition of the Empire Transportation Company and to cripple and injure its property and destroy its property and credit, so that the Standard interests might acquire the refineries and pipe lines and eliminate the competition of the company. Is that true?—A. It is not true.

Q. Have you stated the facts of the transaction as you remember them——A. I have.

Q. —and what led to the acquisition of those properties?—A. I have.

Q. When this transaction was completed, and as a result of it the Pennsylvania Railroad Company ceased to be identified with refining, did the railroad war stop?—A. It did.

Q. And what was there, so far as you may have recollection of it, as to an agreement being entered into between the railroad companies at that time whereby they allotted between themselves the oil traffic on a percentage basis?—A. There was such an arrangement negotiated.

Q. Let me ask you this general question: If the experience was that when there was not some such arrangement between the rail-
12466 road companies there was very apt to be a state of war between them?—A. That seemed to be the inevitable result.

Q. And was that state of war between the railroads regarded as a demoralizing condition in your industry?—A. Yes; it was.

Q. Now, take the arrangement made after the settlement of this disturbed condition and the allotment by the railroads between themselves of the oil traffic, were you and your interests called upon to intervene to make such an arrangement effective by the arrangement of your shipments?—A. We were.

Q. I have, have I not, called your attention to an exhibit annexed to the petition, which is Exhibit 7, and is an arrangement between you and the Pennsylvania Railroad Company, dated October 17, 1877, signed by the Standard Oil Company, by William Rockefeller, of the one part, and Thomas A. Scott, president of the Pennsylvania Railroad, on the other? I have called your attention to that agreement?—A. You have.

Q. And the two features of it, of your agreeing to make your shipments so as to observe the proportions theretofore agreed upon by the companies between themselves?—A. We did.

Q. And also guaranteeing in this case to the Pennsylvania Railroad that your shipments per annum would not be less than a certain number of millions of barrels?—A. We did.

Q. You know that it is another provision of that agreement that the railroad company, in consideration of your guaranty of a minimum of shipments per annum, and of arranging your business to maintain these proportions between the railroads, agreed to pay you 10 per cent of the rate on the oil you shipped and controlled. Do you remember that?—A. I do.

12467 Q. Now, will you tell us the reasons for that contract, and what service you rendered under it as long as it lasted?—A. We rendered ample service for it. We did for them what they could not do for themselves.

Q. What was that?—A. We did it to our own disadvantage at times, ofttimes; sent our shipments to such ports and at such times as to preserve the regularity of the shipments, which was a thing much desired by the railroad companies, to the end that they should get the amounts which they had among themselves agreed upon, to be shipped to each of the ports from which we were exporting the oil.

Q. Do I understand you by that that at a particular time—for instance, to preserve the proportion of the Pennsylvania Railroad—you would ship oil to your disadvantage to Philadelphia, when under normal conditions of your business you would have shipped that oil, say, to New York?—A. I do say that. We made the shipments to conform to their agreements as to divisions, and that was done from time to time in quantities to enable them to carry out the divisions of the traffic and secure for themselves fair transportation rates.

Q. Were you interested in the particular divisions of proportions between the railroads themselves?—A. It was not our affair. It was their affair; they desired it. It was a service which we rendered to them.

Q. In evening the shipments?—A. In evening the shipments.

Q. And what about your business enabled you to perform
12468 that function; was it the volume of your business?—A. The volume of our business from the different points that were then engaged in refining—at Philadelphia, at Oil City, at Pittsburg, at Cleveland; and we made the shipments as they required them.

Q. Whether that was to your advantage or not?—A. Whether that was to our advantage or not. That was a part of what we covenanted to do.

Q. Now, will you tell us in regard to the guaranty that you gave in this contract? You gave a guaranty of a minimum, did you not, and you had to pay on the basis of that minimum in any event?—A. We did; yes. What they desired was large and regular shipments. These we could furnish them, and we could carry out the contract of guaranty of the quantity which they should surely get. That we took upon ourselves, and it was a matter of great value to them.

Q. And had that guaranty any relation to the equipment which they provided? That is, if they provided the equipment, that they had the freight; had it any relation to that subject?—A. We did not control the equipment. They had to provide the equipment.

Q. But did that guaranty perform an office in that regard that there would be a relation between the equipment they provided and what was shipped over their road, what they might expect?—A. Yes. Of course they had to provide sufficient equipment to enable us to do it.

Q. A guaranty like that—I may be wrong about it—would be a guide to a company in the amount of the equipment that it furnished?—A. Oh, they knew just what they could plan in re-
12469 spect to their shipments, and they knew it long in advance, and they knew that whatever we agreed to do they could depend upon always, and they went forward with their arrangements on that basis. It was a matter of great consideration to them.

Q. Do you remember the firm of J. N. Camden & Company?—A. I do.

Q. Who were they and where were they situated and what was their business?—A. The Hon. J. N. Camden, of Parkersburg, West Virginia; Col. W. P. Thompson, also of Parkersburg, and I think a Mr. Cole were of that company.

Q. What was their business?—A. Their business was refining oil at Parkersburg, West Virginia.

Q. What had they there, one or more refineries?—A. They had the one refinery, and I should say that they had the control or spoke for another refinery there.

Q. At Parkersburg?—A. At Parkersburg.

Q. Pool, is that the name of that other?—A. Yes, sir; the Pool Refinery of Parkersburg.

Q. That Parkersburg is in West Virginia?—A. Parkersburg, West Virginia.

Q. Did you some time in 1875 have negotiations with Camden & Company in regard to their property and works?—A. We did.

Q. And what was the result?—A. The result was that we purchased the property.

Q. These two refineries?—A. I believe we purchased both at the time.

Q. And what property they had there?—A. And their properties.

Q. What were the advantages of that situation?—A. They
12470 had a production from which they secured their crude supply, not far away, in that section; not a very large production. They had their local trade, which they had cultivated, and they also had their export trade in the refined oil.

Q. What was your purpose of making that purchase in that locality?—A. To extend our business legitimately on their representations as to the value of their business and their plants and their prospects.

Q. And that has been one of your refining centers ever since, has it not?—A. Yes.

Q. In Parkersburg?—A. Yes. We increased the business after we made the purchase.

Q. Was this your original establishment in that region?—A. It was the foundation of our business there; yes—the first purchase, I believe.

Q. Do you recall that at the time you made this purchase your interests, the Standard interests, organized the Camden Consolidated Oil Company——A. Yes.

Q. ——which took over the property that you had purchased?—A. Yes; we did.

Q. Issuing its stock?—A. Yes.

Q. That was the method in which that was done?—A. That was the method.

Q. Your interests organized a company, took its stock, and took over the property?—A. That was the case.

Q. And that is the Camden Consolidated Oil Company which is mentioned in the so-called trust agreement?—A. It is.

Q. I want now to direct your attention to your pipe-line ac-
12471 quisitions first. Tell us when they began, what the cost of them was, the development of them, say, down to 1878, or somewhere in that vicinity.—A. We began securing those interests in the gathering lines and some other pipe-line interests along in 1873, possibly a very little in 1872. In 1873 and 1874 we had small interests. We were beginning in the direction of acquiring pipes, gathering pipes and other pipes, and we proceeded along from time to time to increase this ownership until we had——

Q. Did you build?—A. In cases where we had purchased interests, those interests were where they could be profitably increased. But we purchased from time to time, as well as constructed, under the pipe-line organizations which were there. That process went on until we had a very considerable interest in, say, about 1877.

Q. I understand you to say that in 1874 your interests were small.—A. It was in the beginning period; they were small at that time, but we kept acquiring until 1877, when, as I have already stated, we had a very considerable interest in the pipe system.

Q. In 1877 what were your interests represented in?—A. These interests in 1877, I think, were put into what was called the United Pipe Lines.

Q. Do you recall any other interest that you had at that time, apart from the United Pipe Lines, that owned and managed gathering systems?—A. We had the American Transfer Pipes.

Q. The American Transfer Company?—A. We had the
12472 American Transfer Pipes.

Q. By 1877, Mr. Rockefeller, is it this way: That what interest you had gradually acquired and what construction you had made in 1874 and later, 1875 and 1876 and 1877, were concentrated in those two concerns, the United Pipe Lines and the American Transfer Company?—A. Yes; they were. As to the matter of construction, the construction was carried forward by the lines; it was done through the organizations there. I do not mean to say that we constructed for them.

Q. No, no.—A. But in their regular organizations they proceeded with the necessary additions and constructions from time to time, so that there was a steady growth, reaching out to take the production from the wells and distribute it.

Q. Some time during 1877 what interests you had in a pipe-line way were consolidated in these two concerns?—A. They were.

Q. Now, will you give us your reasons for entering that field?—A. The supply of the oil was of the greatest importance to us. These lines were regarded by us as a very important adjunct, to make sure the continuance of the work for our refineries. We should have gone forward with that work more rapidly, but funds were absorbed, as we went on, in ways that seemed for the moment to be better. We regarded them as very important adjuncts for the perpetuation of the supply for the refineries, and wanted to be in that close relation so we could get the supply.

Q. You have spoken of gathering lines. You can tell us enough for the purposes of the record here just what you mean by
12473 that. What are the gathering lines?—A. When a well begins to produce oil a small pipe line is connected with that well—a little pipe system, which leads out and connects with the system. That gathers the oil from the well. There it is introduced into the pipe system.

Q. In those early days were those gathering systems the systems which gathered the oils from the wells and took the oils to some railroad point for rail shipment? I am coming now to the days before there were trunk lines.—A. The oil went through the pipes to the railroads, whether always through this particular gathering system or whether they extended out in some cases to greater distances. In some cases these gathering lines, perhaps, could reach the railroad,

but of that I am not quite certain at the moment. But either in that way or through the lines with which they connected they made the deliveries to the railroads.

Q. To the railroads at local points?—A. At local points; yes.

Q. So that the whole system of pipes in the origin consisted of these gathering lines, which gathered the oil, and either through their own gathering pipes or through some pipe delivered the oil to some railroad at a point where the railroad took the oil?—A. Yes. It was a pipe system by which the oil was gotten to the railroad for shipment.

Q. In the early days were there a good many little companies of all kinds, little gathering systems?—A. Oh, yes; there were numbers of those springing up here and there.

Q. What sort of concerns were many of them, as to extend-
12474 ing or having the means or capital to extend them?—A. They were very small, and there was no capital specially connected with them, you know. They were just little lines that were of very little value or account. There were many such.

Q. You have said that that was an important adjunct to your business. Take the earlier conditions there, with these small separate companies; what was their efficiency for reaching new oil wells that were discovered?—A. There was a limitation all the time. When we introduced the larger systems there was improvement and businesslike administration, which was for the general accommodation of the people producing the oil, and generally facilitated and helped to give stability to the industry. That was a gradual improvement after we took hold in the more important way.

Q. They are the means of reaching the oil wherever it may be produced, are they not?—A. Yes; that is, the means employed in these times.

Q. Wherever wells are opened and oil flows, if that oil is to be made available it has to be piped from that place to somewhere?—A. Oh, yes; that network of pipes must of course——

Q. In those early days was it brought home to you that it was necessary for you in your business that there should be more efficiency in the pipe-line facilities than there was?—A. I should say it was conceded in the formative period that, generally, the improvements were very much needed; but everybody was hurried, and that came
12475 along in common with other steps of progress in the business and settled down to regular and more desirable methods. That was a process going on which we, as rapidly as we could, contributed to, to the great comfort and satisfaction of the trade.

Q. And in the conditions of the business as they were in those years, when you acquired these pipe-line interests, as I understand you, you regarded them as an important and necessary adjunct to your business as refiners?—A. Oh, yes; we did. We came to feel more and more that as we required more oil to use we must have means of getting it, and without interruption, and see to it, too, that as the supply of oil increased there was no question about the additional and

necessary pipes to take care of it. Great floods of oil came, and with the capital which we introduced we made it our business to see to it that the oil was saved and taken care of. It became a large business of itself, of very great importance to the whole industry.

Q. You built tanks to store the oil?—A. Oh, yes; we built tanks. We continued to build tanks year after year. It was a very interesting experience through which we passed, that business of building the tanks.

Q. And you have now given us the reason why you went into the acquisition and construction of pipe lines?—A. I have; yes. And the subsequent experience proved that it was a matter of great moment, of great value to the whole interest.

Q. Of great necessity?—A. Of great necessity—that we
12476 should thus have taken hold of it and put in the necessary capital not only to supply as needed those gathering lines, but to supply them promptly, and not to wait a day or two or three, as might have been the case in this inferior service previous to our taking hold of it in earnest, or our friends who were there engaged in the business, but to see to it that the oil was not lost; that when it came out of the ground, whether at day or night, our men should be there, should make the connections and save the oil. And then we went on with the necessary larger pipes to get it away to where it would find its market, its shipping point. And then the matter of the building of the tanks was an undertaking so great that we could not have expected to accomplish it had we undertaken to do it all at once. Conservative men in our connection never would have consented to make such large expenditures. So that we did not make one decision to construct the tanks which were necessary, but our men coming in from the fields would report from time to time the pressing necessity for additional five hundred thousand barrels of tankage, and as quickly as we could bring our conservative interests to agree we would say, "Go ahead." It would be a very short time, indeed, before the men would come back again. And so, step by step, we continued building until million after million of barrels of tankage were constructed. It was an immense outlay of money.

Q. That tankage took care of the oil?—A. Otherwise the oil (much of it) would from time to time have wasted and run into Oil Creek and the Allegheny River. We saved it. It could not have been done
under the system that was previously in vogue. There was
12477 not the capital there; there was not the organization there.
It was a godsend to the region that we moved, and moved as they needed it, and moved boldly, and continued so long as the necessity existed.

Q. You have spoken of the gathering systems. What was the first trunk line that you acquired?—A. We did acquire a very important trunk line running down to Pittsburg.

Q. The Columbia Conduit Company?—A. We acquired it from Mr. Hostetter, of Pittsburg. I think it was the Columbia Conduit Company.

Q. And when was that? If I may help you, I think it was in 1877?—A. I should have said some time during that year—in 1877. I think it came along about the time of our getting together those other systems, which was about, say, 1877.

Q. Where was the southerly terminus of that line—Pittsburg?—A. Pittsburg.

Q. And then it ran in what direction—where?—A. It ran up the Allegheny Valley; tapped that prolific section, which was then producing oil; perhaps the Clarion field and another field there. Would it be the——

Q. The Butler field?—A. Perhaps the Butler field.

Q. What was the railroad through that valley?—A. Part of the Pennsylvania Railway; I think it was called the Allegheny Valley connection.

Q. That railroad ran through that valley?—A. Yes; and down the river.

Q. And this pipe line, which ran through the valley to Pittsburg, furnished a means of piping the crude oil from the gathering lines to Pittsburg?—A. Yes.

12478 Q. Where you had refineries?—A. Yes.

Q. For what purpose did you acquire it?—A. To further our securing for those refineries and for our export trade notably; we were pushing the oil to avail of that method of transportation.

Q. Piping your crude right into Pittsburg?—A. Piping our crude right into Pittsburg, where our refineries were.

Q. By means of that line?—A. By means of that line. We did not create that line. The line was in existence. It was purchased by us.

Q. In the development of your business with your refineries there I suppose it was a question either of buying a line or building a line, wasn't it, Mr. Rockefeller?—A. It was just the thing that we wanted for our large refining interests there.

Q. Instead of building a line you bought this line?—A. We bought this line; we did not build this line. What I say is we did not construct the line; we bought it from Mr. Hostetter.

Q. Mr. Rockefeller, throughout your testimony, with reference to these purchases, acquisitions, and constructions, you have used the word "we." Whom do you mean by "we?"—A. I mean the stockholders of the Standard Oil Company of Ohio.

Q. Whose money was used for this purpose? Make a little fuller statement in that regard.—A. The money that belonged to the stockholders of the Standard Oil Company was used.

12479 Q. Taken from where?—A. Taken from the Standard Oil Company of Ohio.

Q. Its treasury?—A. Its treasury. Instead of dividing the money it was used to promote——

Q. And as to these purchases—for instance, those that you have given—either a company was organized to take over the property and its stock issued or the stocks of corporations acquired?

Mr. KELLOGG. That is objected to.

Mr. MILBURN. That is what he said.

Mr. KELLOGG. Wait a moment. That is objected to as too general.

Q. When you made those acquisitions what became of these stocks? That is the question I am getting at.—A. What stocks do you refer to? Which were acquired?

Q. Yes.—A. They were held by individuals for the stockholders of the Standard Oil Company of Ohio.

Q. According to your testimony, by 1879 a good many properties had been acquired, Mr. Rockefeller? That is true, is it not?—A. A good many properties had been acquired by that time; yes.

Q. Stocks were outstanding in the hands of individuals?—A. In the hands of individuals.

Q. And, as I understand you, these stocks had been acquired for the benefit of the stockholders of the Standard Oil Company of Ohio?—A. They had, in every case.

Q. Now, in 1879 did you take up that situation and have it put into written form?—A. We did.

12480 Q. I show you a paper, marked Defendant's Exhibit 257, and ask you if that is the original paper which at that time embodied the transaction in regard to these acquisitions?—A. That is the paper.

(It was consented by counsel that a copy of Defendants' Exhibit 257 may be treated and considered as the original, and that the original will be produced at any time on any hearing or argument of this case.)

Q. That is the original?—A. That is the original. It bears my signature as president of the Standard Oil Company of Ohio.

Q. Have you looked over the other names?—A. I have.

Q. Who are the individual signatories to the agreement?—A. Charles Pratt——

Q. Without naming them, but merely looking them over, who are they?—A. These are the individual stockholders of the Standard Oil Company of Ohio.

Q. And how many of those signatures there can you identify?—A. Very few of them.

Q. From your knowledge of their signatures?—A. Oh, yes; I can.

Q. Will you enumerate such of them as you can identify?—A. I can begin at the last end. George I. Vail, J. N. Camden, J. Crowell.

Q. You know the signatures of the men? You can say that you know those signatures, and they are the signatures of the individuals named?—A. They are the signatures of those individuals.

Q. Who were stockholders of the Standard Oil Company?—A. Who were the stockholders of the Standard Oil Company of Ohio.

12481 Q. And as I understand, to make it complete, the signatures of the people or the individuals who held stocks that have been acquired as you have described?—A. Yes, sir.

Q. And who were turning them over at this time to Vilas, Keith & Chester to keep, as trustees under the agreement?—A. To com-

plete the transfer, everything that had been held in the names of individuals.

Q. So that under this agreement all of these stocks that had been acquired and were held outstanding in the names of individuals were brought together into the hands of Vilas, Keith & Chester as trustees under this agreement?—A. They were.

Q. In the body of the agreement there are the names of certain parties, and opposite to them the proportions?—A. Yes.

Q. Were those names the names of the stockholders of the Standard Oil Company of Ohio, and with these proportions?—A. They were the names, and these were the proportions.

Q. Of the stock of that company?—A. Of the stock of that company.

Q. Which they owned?—A. Of the the stock of that company which these individuals owned.

Q. So its capital stock at that time was $3,500,000?—A. The capital stock at that time was $3,500,000 of the Standard Oil Company of Ohio.

Q. If a man owned 59 shares, his proportion was 59/35,000ths?—A. Each man got his ratable proportion.

Q. As the total number of shares were 35,000 shares, if a man owned 59 shares, then the proportion given is 59/35,000ths—A. That is right.

12482 Q. In the petition in this case there is set out the so-called trust agreement of 1882. This agreement provides that the parties to it shall embrace three classes—the first, certain named corporations; the second class named a number of individuals; the third class are more corporations. Now I want you to look at the second class, consisting of the individuals, and ask who and what their relations were to that.—A. These are all stockholders of the Standard Oil Company of Ohio.

Q. They were the stockholders of the Standard Oil Company of Ohio?

Mr. ROSENTHAL. And all of them?

Q. And all of them?—A. Yes, sir.

Q. And including or adding (whichever it may be) Vilas, Keith & Chester, the trustees under the agreement which has just been put in evidence?—A. Yes; Vilas, Keith & Chester.

Q. So that the parties in the so-called second class are all the stockholders of the Standard Oil Company of Ohio, and Vilas, Keith & Chester, the trustees who held the stocks under the agreement of 1879?—A. Yes, sir.

Q. You have examined this agreement, Mr. Rockefeller?—A. I have.

Q. And you can say, can you not, that the signers to the agreement are all the stockholders of the Standard Oil Company of Ohio and Vilas, Keith & Chester?—A. I do say so; yes, sir.

Q. Now, I want to call your attention to two or three contracts attached to that petition, to which I have called your attention

12483 before this. First, I call your attention to Exhibits 3 and 4 attached to the bill, which are the contracts with the Erie, covering the Weehawken yards, to which oil was delivered. You have examined these contracts recently, have you not, the ones annexed to the petition?—A. I have.

Q. These are contracts whereby under certain terms and conditions the operation of the yard was turned over to the Standard Oil Company. You recall that?—A. Yes.

Q. In the same connection is Exhibit 5 attached to the petition, which is a contract signed by the New York Central & Hudson River Railroad Company, with respect to certain oil terminals at Hunters Point and at the foot of 65th street, on the Hudson River, of a similar nature to the contract with the Erie as to the Weehawken yards. Will you explain what the occasion was or what the reason was for those contracts?—A. The contracts to run that warehouse do you mean?

Q. The contract with the Erie in regard to the operation of the Weehawken yards by your company, with respect to all deliveries of oil, and the services to be rendered there in connection with the deliveries of oil?—A. Yes.

Q. And a similar contract with the New York Central?—A. Yes.

Q. Now, what was the occasion for those contracts?—A. We were handling these large quantities of oil. We were warehousemen. We were natural parties to take these warehouses and handle them. It was in our regular business of the receiving and shipping of the oil, and we had the oil which was constantly coming forward, that we wanted a place for. They wanted experienced warehousemen who could handle the warehouses in the best manner; a simple,

12484 natural arrangement to be made between the railroad company and the men best calculated to conduct the business.

Q. Now, let me ask you, is oil that is transported in barrels on railroads subject to damage and injury, leakage, requiring special and particular attention when it reaches its terminus?—A. In those days especially, when the oil was so largely transported in the wooden packages such as I referred to, often of green wood, with exposures to sun and weather, it required the emptying of the barrel, the recoopering of the barrel, shortening up the hoops, and reglueing the package if necessary, and whatever rendered it acceptable to the purchaser of the oil, before he would consent to its being loaded into the ship. The regular services of warehousemen were performed by us in these cases.

Q. That was a special sort of a service, was it not?—A. A special sort of a service, for which we were eminently fitted.

Q. You were very large shippers?—A. We were; certainly.

Q. And your oil was coming there and needed attention when it got there?—A. Certainly.

Q. Was that sort of attention, the cooperage and handling of the oil there, within the ordinary work of railroad employees?—A. Not at all; not at all.

Q. It required a special class of employees?—A. Oh, yes. It was not a warehouse business in the ordinary sense, where all classes of merchandise are held. It was this peculiar business which was our business, and the railroad companies we thought chose the proper parties to be their warehousemen.

12485 Q. And that was the occasion of these contracts in regard to the oil terminals?—A. It was.

Q. To have the service that was required there of a sepcial kind properly rendered?—A. That was a part of what we contracted to render.

Q. And which was necessary in the case of your own shipments?—A. Oh, yes.

Q. There is another contract that I have called your attention to, which is Exhibit 6, and which is to run from the first day of October, 1874. It was made by the Oil Creek & Allegheny River Railway, the Allegheny Valley Railroad, the Pennsylvania Railroad Company, the Lake Shore, the Erie, and the Atlantic & Great Western. You have looked over that contract, Mr. Rockefeller?—A. I think I have.

Q. It is not one to which you or your company is a party at all. It embodies a pooling contract, that is, distributing the oil among the various principal lines that you have spoken of in certain proportions, and fixed rates from refining points to the seaboard on refined oil and on crude, and then it has this provision: "The roads transporting the refined oil shall refund to the refiners, as a drawback, the charges paid by them upon the crude oil reaching their refineries by rail, and the road transporting through crude oil to the eastern seaboard shall refund to the shippers 22 cents per barrel; both of said drawbacks to be paid only on oil reaching the initial points of rail shipment through pipes the owners of which maintain agreed rates of

12486 pipeage; it being understood that the said rates of pipeage shall be equitably adjusted as between the several railroads, and that they shall be set forth in a contract to be entered into between each pipe line and the trunk line parties hereto, such agreed rates of pipeage being of importance to the parties hereto and constituting a valuable consideration to them." Can you inform us as to the object of these provisions in that contrast between the railroad companies? Take the first, for instance.—A. To put the different refining points on a parity. That was the——

Q. I did not catch that.—A. To put the different refining points all on a parity.

Q. Explain that a little more fully.—A. It was so that the man who had to draw his crude oil, for instance, to Cleveland should have such an allowance that when he got his barrel of refined oil to the seaboard the cost to him should be the same as though he had drawn it from some other point. The effect of it, if my memory serves me right, was so that these different points should be on the same basis in their opportunity to ship the oil for export. That is my recollection about that.

Q. Now, just stop there a moment. The tendency (if I may use that word) of any railroad desiring oil traffic would be to put the refineries on its road on a par with refineries on other roads?—A. That was what refiners were assured, that the different points should each have the same chance. This was to accomplish that result.

12487 Q. Now, in regard to the rail shipments of crude to the seaboard, the return of 22 cents a barrel to shippers when the pipeage rates had been observed, will you explain that?—A. The maintenance of those pipeage rates prevented one road having pipes giving a discrimination. The pipes were recognized as entitled to a consideration for what they contributed in this transportation. It meant that the arrangement could not be defeated if the pipe line in each case maintained its rate.

Q. If the pipe line did not maintain its rate, then the shipper did not get the drawback?—A. In that case the shipper did not get the drawback. It was predicated upon the keeping of the covenant that the consideration was given.

Q. If the pipe line had not observed the rate the shipper of the crude got the benefit of that to the extent that that pipeage was cut?—A. Yes; and that would have been a violation of the spirit of that understanding all around.

Q. So that the arrangement here was, as I understand it, that every shipper of crude oil got 22 cents a barrel back if the agreed pipeage rate had been paid——

Mr. KELLOGG. That is objected to.

Q. ——if the agreed rate of pipeage had been maintained?

Mr. KELLOGG. No; that is objected to because it does not properly state the contract.

Mr. MILBURN. Well, what is it then?

Mr. KELLOGG. No drawbacks at all were paid on oil that did not reach the railroad.

12488 Q. I am talking about the oil that is covered by this contract: "And the road transporting through crude oil to the eastern seaboard shall refund to the shippers 22 cents per barrel," it being understood that that drawback was to be paid only on oil reaching the initial points of rail shipment through pipes the owners of which maintained agreed rates of pipeage; so that if the agreed rate of pipeage was not maintained then the shipper did not get the drawback?—A. That seemed to be the condition.

Q. If the shipper paid the agreed rate of pipeage he got his drawback?—A. I think you are just right in that interpretation. The effect was to prevent the interference with carrying out the idea that each point should be placed on the same basis, the same opportunity afforded the refiner at each point in the freighting of his oils, whether drawn to Cleveland, for example, or to some other point, there refined and carried back. My idea of that arrangement was——

Mr. ROSENTHAL. Carried back to the seaboard?

WITNESS. Carried back to the seaboard for shipment. My idea of that arrangement was to hold that thing even and fair to each point. That is my idea of that arrangement.

Q. Now, the second drawback there was on crude shipped to the seaboard. You have that in your mind, have you not? This one is: "And the road transporting through crude oil to the seaboard shall refund to the shippers 22 cents per barrel." Now, that was in favor of the seaboard refineries getting their crude oil?—A. As I
12489 would understand it. I may say that the matter of the freight business did not come under my—I did not attend to that. I was not familiar generally with that business, and have not been for 30 years, but my understanding of that scheme, as I have previously stated, was that whether a man was at the seaboard with a refinery, or whether he was at Cleveland with a refinery, or whether he was at Pittsburg with a refinery, or in the oil regions, my idea is that the effect of that arrangement was to carry out what had been talked about, giving each refining point an equal chance for doing the business.

Q. Putting them on a parity?—A. That did away with the idea of wiping out Cleveland, as Thomas Scott had promised to do. It was with the idea of holding things steady and giving all the different points an equal chance. Now, as I say, I am not a freight man. I had not to do with the freight matters in those days even. It has not been in my line of work for a matter of 30 years, and I am not an expert. That is my expression upon that subject.

Q. With respect to this contract?—A. Yes, sir.

Q. And its objects and purposes?—A. Yes, sir.

(An adjournment was then taken until Friday, November 20, 1908, at 10.30 o'clock a. m.)

12490 ROOM 508, CUSTOM-HOUSE, NEW YORK CITY.

Friday, November 20, 1908—10.30 a. m.

The hearing was resumed before the special examiner, Hon. Franklin Ferriss, at the above time and place.

Present on behalf of the petitioner, Mr. Frank B. Kellogg, Mr. Charles B. Morrison, Mr. J. Harwood Graves. On behalf of the defendants, Mr. John G. Milburn, Mr. Moritz Rosenthal, Mr. John S. Miller, Mr. F. L. Crawford, Mr. Walter F. Taylor, Mr. Douglas Campbell, Mr. W. Cleveland Runyon.

JOHN D. ROCKEFELLER, recalled, testified as follows:

Cross-examination by Mr. KELLOGG:

Q. Mr. Rockefeller, I believe you stated that the oil business was, in its early days and is now, a business of great hazards?—A. Yes, sir.

Q. The elements of those hazards which you mentioned were the decreasing oil fields and the uncertainty of the oil production?—A. That was one of the elements. Those were elements.

Q. That was the principal element, I believe, you mentioned?—A. The element which I mentioned was with reference to the question of the instability of the investments in the oil, not knowing when the production would cease. They were not all the elements of risk.

Q. I will come to the others. Now, in the Pennsylvania field, while certain parts of the field have undoubtedly decreased,
12491 there was a general increase, year by year, from 1860 to 1900, was there not?—A. I could not give the production of the different years.

Q. Substantially, you remember that there was a general increase down to within the last eight years?—A. My recollection would be that the production of crude oil was constantly fluctuating, sometimes increasing and other times decreasing.

Q. But, on the whole, increasing until about 1900?—A. I could not state with definiteness the amount of production in each of the years.

Q. I quite appreciate that; but it appears by the record of the Geological Survey that in the year 1900 the Pennsylvania field produced substantially 36,295,000 barrels, as against 30,961,000 in 1895, and as against 30,067,000 in 1890, 21,534,000 in 1885, and so on down. It would appear, therefore, that the Pennsylvania field generally increased in its production until about the year 1900. Is not that true?—A. I can not state from recollection.

Q. Is not that your general recollection?—A. It is not.

Q. Your general recollection is that it decreased all the time?—A. No.

Q. Is not that your general recollection?—A. No.

Q. Isn't it your general recollection that the largest production was about the year 1900?—A. I could not state.

Q. Was not the decrease after that quite largely due to the cheaper oil coming in from the western fields?—A. I can not state that.

12492 Q. The total production of oil in this country has very rapidly increased or steadily increased for the last fifty years, has it not, until to-day it is the largest in the history of the world?—A. I should say that to-day it is as large, though I have not myself definite knowledge in respect to that question.

Q. So that an experience of fifty years, or an experience of any twenty years, has shown that there was ample supply of oil for your manufacture, has it not?—A. No, sir.

Q. It has not? Now, there have been at times temporary shortages, but generally speaking the supply of crude has rapidly increased from year to year, has it not?—A. The supply of crude, as I would remember it, has increased and decreased at different periods, but I should not say with regularity.

Q. Each time there was a decrease the next time there was an increase that was way beyond the production of the previous period?—A. That I could not say.

Q. Is not it your recollection that generally the production has increased from time to time?—A. My recollection is that it has increased and decreased alternately during all the period.

Q. Is not the production to-day many times what it was thirty years ago?—A. I believe it is.

Q. Has not your experience shown that as the years go by the general production—I am not referring to short periods of decrease and increase, but the general production has very large-
12493 ly increased?—A. Oh, yes. The general production to-day is much larger than it was when I was actively in the business.

Q. Now, in addition to the Pennsylvania field, about 1890 the Lima-Indiana field was opened, wasn't it?—A. I do not recall the date of the opening of the Lima and the Indiana. I could not give the precise date.

Q. It became an important field about 1886 to 1890?—A. I presume in those years, without being able to state definitely.

Q. And when that commenced to decrease, the great mid-continent field of Oklahoma and Kansas came into the market?—A. Well, I could not state about the time of their beginning. It is since my time in the oil business.

Q. That development was in the early period of 1902 to 1904—1904–5. Now, it has not been the policy of the Standard Oil companies to own all their production; that is, the wells to produce all the oil, has it?—A. To produce all the oil?

Q. Yes.—A. No.

Q. Crude oil I am talking of; nor a very large proportion of that which it uses?—A. No, it has not; I suppose, as a matter of fact, though, as to that I can not definitely state as to what——

Q. Well, in the days when you were familiar with the business, the producing of oil by oil wells was not a large part of your business?—A. I should say not, during my——

Q. The production of oil by the owners of the land, or the owners of the leases, is a hazardous business, isn't it?—A. I should
12494 say as a part of the whole hazard of this business, from the time we begin until the time we get through.

Q. Please confine yourself to the subject of production. The drilling of oil wells and the production of oil is a very hazardous business, isn't it?—A. It is. I should say it partakes of the general character of mining business.

Q. Of mining business; yes.—A. Generally.

Q. Many wells are sunk which become unproductive?—A. Yes.

Q. No oil at all is found?—A. I suppose so.

Q. And it was the general policy of your companies to buy the production at the wells, was it not?—A. We were always buyers of the production at the wells.

Q. The larger part of the crude oil which you manufactured during your years in active business was purchased at the well from the small producers, was it not?—A. It was purchased, and not produced.

Q. Yes; and the number of producers in the oil regions were very large, were they not?—A. There were a good many producing.

Q. Your business has been largely confined to the manufacture, transportation, and marketing of the oil, hasn't it?—A. Those are the important features.

Q. Those are the most important features?—A. Will you kindly state again those three?

Q. The transportation by pipe lines, the manufacture, and the marketing.—A. Those are important features.

Q. Are those not the principal features of your business?—A. Perhaps they would be called the principal features.

12495 Q. Now, in that business, your business has been extremely profitable every year, has it not?—A. We have been prosperous since the beginning.

Q. Do you consider a business hazardous that has since 1882, on an original investment of about $67,000,000, paid dividends of over $591,000,000, besides having a surplus of $300,000,000?—A. Do I consider what?

Q. Please read the question.

(The official reporter read the question, as follows: "Q. Do you consider a business hazardous that has since 1882, on an original investment of about $67,000,000, paid dividends of over $591,000,000, besides having a surplus of $300,000,000?")

A. I do not consider that the question of the amount of money that has been made determines the question of whether the business was hazardous or not.

Q. During each year since the organization of the trust the profits of the Standard Oil Trust and the Standard Oil Company have gradually, from year to year, increased, have they not?—A. I could not say that they had gradually increased from year to year.

Q. Well, rapidly increased?—A. They are more to-day than they were forty years ago.

Q. The original number of certificates issued by the trust when the stocks of the thirty-nine corporations were taken in, in 1882, was seventy million, was it not?—A. Yes, sir.

Q. Those stocks are recited in the exhibit which Mr. Milburn called to your attention yesterday as the trust agreement set forth in the bill?—A. Yes, sir.

12496 Mr. ROSENTHAL. Let us have that last question read.

(The official reporter read the question and answer, as follows: "Q. Those stocks are recited in the exhibit which Mr. Milburn called to your attention yesterday as the trust agreement set forth in the bill?—A. Yes, sir.")

Q. Those stocks included the companies which you testified to at length yesterday——A. Yes, sir.

Q. ——and many others which you did not testify to yesterday?—A. Presumably.

Q. The total number of companies or limited partnerships having stock was thirty-nine, I believe, in 1882?—A. I do not recall the number from——

Q. Those stocks, when they were put into the trust, were valued, were they not?—A. Yes, sir.

Q. By a committee?—A. I assume so.

Q. Did not you at that time take those stocks in upon an actual value of property acquired of $55,710,698.24?—A. Do you refer to the book value?

Q. I refer to the actual value of the property acquired as appraised.—A. I should say—would you kindly let me see the paper? [Paper handed to witness by Mr. Kellogg.] I should say that that was about the amount.

Q. About that amount, Mr. Rockefeller?—A. Yes, sir.

Q. About $55,710,698.24?—A. Yes, sir.

Q. So that the stock of the trustees, that is, the trust certificates——A. The trust certificates.

Q. ——thereafter issued, were issued either for stock dividends or for additional properties acquired?

12497 Mr. MILBURN. Just a moment, please. I object to that question on the ground that the subject to which it relates is outside of the direct examination and not covered by it in any way.

Mr. KELLOGG. Has the question been answered?

The OFFICIAL REPORTER. No, sir.

Mr. KELLOGG. Please read the question to the witness.

(The official reporter read the question, as follows: "Q. So that the stock of the trustees, that is, the trust certificates thereafter issued, were issued either for stock dividends or for additional properties acquired?")

Q. Please answer the question, will you? (To the official reporter.) Kindly read it again.

(The official reporter read the question, as follows: "Q. So that the stock of the trustees, that is, the trust certificates thereafter issued, were issued either for stock dividends or for additional properties acquired?")

Q. You have no objection to answering, have you, Mr. Rockefeller, giving us all the information, personally, I mean?—A. Not at all, sir.

Mr. MILBURN. Wait a moment, Mr. Rockefeller, please; that is not a proper question.

Mr. KELLOGG. I think it is.

Mr. MILBURN. That is not a proper question to put to you.

A. I am answering that I have no objection to answering what is proper. That is my answer.

Mr. MILBURN. Now, counsel has objected to that question.

Q. Please answer the question, then.

12498 Mr. MILBURN. You answer the question, subject to the objection. You have to answer it, subject to the objection that has been made.

Mr. KELLOGG. He is not obliged to answer. He can answer it if he desires.

Mr. MILBURN. Oh, he is going to answer the question, of course——

WITNESS. I am going to answer it.

Mr. MILBURN. He is going to answer it, subject to the objection that has been made.

A. Now, if you will kindly state it again.

(The official reporter read the question, as follows: "Q. So that the stock of the trustees—that is, the trust certificates thereafter issued—were issued either for stock dividends or for additional properties acquired?")

Mr. MILBURN. I will ask on the record: Do you insist upon an answer to that question?

Mr. KELLOGG. I ask Mr. Rockefeller if he is willing to answer it.

Mr. MILBURN. Then, Mr. Rockefeller, I would say: No; not unless counsel insists upon it, and then you will answer.

A. Not unless the counsel insists upon it, and then I will answer it.

Mr. KELLOGG. I believe the question to be a proper cross-examination; not only as laying a foundation to show that the risks of the business have not been great, showing the amount of the investment and the income therefrom, but as a foundation for showing whether these properties have all been acquired fairly or under duress
12499 and in restraint of trade, and other branches of the direct examination. If Mr. Rockefeller has any personal objection to answering the question, I shall desire him to state it. If not, I wish him to answer the question.

Mr. MILBURN. Mr. Rockefeller will not say anything more than he has said.

Q. Please answer the question, Mr. Rockefeller.—A. Now, if you will give it again, as my mind has been turned off.

(The official reporter read the question, as follows: "Q. So that the stock of the trustees—that is, the trust certificates thereafter issued—were issued either for stock dividends or for additional properties acquired?")

A. I suppose so.

Q. Yes, sir. The stock dividend which was paid was paid on the certificates December 31, 1886, in additional certificates amounting to $15,028,200?

Mr. MILBURN. One moment, please. I object to that question on the ground that the subject to which it relates is outside of the direct examination, not covered by it in any way.

Mr. KELLOGG. Do you wish that objection to every question, or to stipulate that it may apply to all?

Mr. ROSENTHAL. No, no.

Mr. MILBURN. Whilst you are in that territory.

Mr. KELLOGG. All right; same objection.

Q. Please answer the question.

THE EXAMINER. Read the question, Mr. Taylor.

12500 (The official reporter read the question, as follows: "Q. The stock dividend which was paid was paid on the certificates December 31, 1886, in additional certificates amounting to $15,028,200?")

Q. Is that correct?—A. I don't know whether I am to answer this question.

Q. Yes.

Mr. MILBURN. Counsel asks you to answer it, notwithstanding the objection.

A. Counsel ask me to answer it notwithstanding the objection?

Q. Yes, sir.—A. I assume that to be correct.

Mr. ROSENTHAL That is, counsel for the Government.

A. I understand that, counsel for the Government.

Q. Then the stock of the Standard Oil Company is about $98,328,000?

Mr. MILBURN. I object to that question on the ground that the subject to which it relates is outside of the direct examination, not covered by it in any way.

Q. Well, 338 thousand, then. $98,338,000. Please answer, Mr. Rockefeller.—A. Do I understand that I am to answer this question?

Q. Yes.—A. The same situation as to the last question? I am to answer? I assume that that capitalization is about correct. I could not state precisely.

Q. Then there was issued after the trust, either in trust certificates or stock of the Standard Oil Company of New Jersey, in exchange for cash or properties, about $13,310,000?

12501 Mr. MILBURN. Same objection.

Q. Is that not correct?—A. I do not understand to what you refer.

Q. If $70,000,000 was first issued, then a $15,000,000 stock dividend, that would make about $85,000,000. The present stock is $98,338,000, which would leave about $13,310,000 of trust certificates or stock which was issued after the organization of the trust, for cash or properties?—A. Up to what time?

Mr. MILBURN. The same objection.

Q. Up to the present time.

Mr. MILBURN. The same objection.

A. I can not tell just how much of stock was issued for properties.

Q. Assuming——A. I can not tell that.

Q. Well, assuming that all except the stock dividends was issued for properties or cash at the full par thereof, it would be about $13,310,000, wouldn't it?—A. It would be the difference, whatever that would figure, between the original amount and the amount at the date.

Q. That would make the actual cash investment in the Standard Oil Company, either stocks and properties turned in, or cash and properties turned in in the trust, or stocks and properties afterwards put in for stock issued, about $69,000,000, wouldn't it?

Mr. MILBURN. The same objection.

Q. Inclusive, of course, of investments of profits?—A. I do not know where you get your $69,000,000, Mr. Kellogg.

12502 Q. Well, the original $70,000,000, you said——A. Yes; that is all right.

Q. —— represented property valued at $55,000,000; that is correct, isn't it?—A. About 56, I think.

Q. You had 56?—A. I think your figures show.

Mr. ROSENTHAL. Book value.

Mr. KELLOGG. Actual value, he says, in the certificates.

WITNESS. Well, I say book value. It appears on the books. I judge from the paper which you have shown me, and therefore I say the book value; yes, sir.

Q. It appears on the books here as actual value of property acquired?—A. The record on the book shows that value.

Q. $55,000,000. Now, you said there was an appraisal at that time, did you not?—A. I think there was an appraisal of values at that time.

Q. And it was entered on the books?

Mr. MILBURN. The same objection.

Q. That would make $55,710,000 of property originally put in?—A. Yes.

Q. Yes, sir. Now, since then you have added $13,310,000 for trust certificates issued or stock of the Standard Oil issued?

Mr. MILBURN. The same objection.

Q. That is correct, isn't it?—A. Well, if it is correct, we have added trust certificates. I do not know just what the amount is.

Q. That would make the total investment in the Standard Oil, the original investment in the Standard Oil, exclusive of earnings, profits, which have been put in the property, of about

12503 $69,000,000, wouldn't there?—A. I am all right, Mr. Kellogg, with your figures, $56,000,000, if you please, of the book value. The other figuration of yours, with your brighter mind, you get clearly and quickly; I do not exactly grasp what you mean by the $13,000,000. I have not any $13,000,000 in my mind.

Q. Well, a little over $13,000,000 added to the stock dividends would make the present stock of the Standard Oil Company, wouldn't it?—A. Are you starting now with the 70 millions, Mr. Kellogg?

Q. Yes, I am.—A. There were issues of stock after the 70 millions.

Q. Yes.—A. Now, there were earnings; there were acquisitions of properties.

Q. Certainly. But, Mr. Rockefeller, I am talking about the new money put in or property put in after the trust, not including the earnings of the trust or the earnings of the Standard Oil.—A. Yes.

Q. You understand that?—A. I understand that.

Q. Now, that amounted to about $13,310,000, for which trust certificates and Standard Oil stock were issued?—A. That is, the new money put in.

Q. Yes, sir; exclusive of the earnings.—A. New money put in.

Q. Yes.—A. Exclusive of earnings?

Q. Yes, sir.—A. It was the new money that was put in and the earnings, whatever they were.

Q. Now, leave out the question of the earnings, Mr. Rocke-
12504 feller. I am coming to that separately.—A. Well, then, I understand you to state that there were 13 millions of new money put in?

Q. The books show that.—A. Do you mean new money or do you mean property?

Q. Oh, property and money.—A. Yes; property and money.

Mr. ROSENTHAL. Don't you mean trust certificates issued——

Mr. KELLOGG. For property or money.

Mr. ROSENTHAL. ——at par?

Mr. KELLOGG. Yes, sir.

Mr. ROSENTHAL. Which does not indicate the value of the property.

Q. I think you understand me. We will start with the $56,000,000.—A. Of property?

Q. That is the original property put in?—A. Book value at the time; that is all right.

Q. Now you say you issued 15 millions of stock dividends?—A. You say that I say so.

Q. Well, is that correct, or is it not? Is that correct?—A. There were issues after the 70 millions from time to time. That is all right.

Q. Yes, sir.—A. But as to the 13 millions——

Q. Now wait a minute.—A. ——that is a little hazy in my mind, Mr. Kellogg.

Q. I know; I want to clear that up. Were the 15 millions of certificates issued as a stock dividend?—A. We could quickly tell if we knew what was the percentage of stock dividend.

12505 Q. 20 per cent.—A. That would be about 14 or 15 millions.

Q. Yes, sir.—A. If I am to answer that question.

Q. So that the balance of the stock or certificates which was issued was issued for property or money at the full par value, was it not?

Mr. MILBURN. Same objection.

Q. Is that correct?—A. I understand that my attorneys have raised an objection. I pause.

Mr. KELLOGG. The same objection applies, I suppose, to each question.

Mr. MILBURN. Yes.

Q. Please answer.

Mr. ROSENTHAL. What was the question? Let us have it.

(The following question was read: "So that the balance of the stock or certificates which was issued was issued for property or money at the full par value, was it not?")

A. I understand, Mr. Kellogg, that you require me to answer this notwithstanding the objection of my attorneys?

Q. Yes, sir.

(The question was again read.)

A. Yes, sir.

Q. Then, adding the balance issued, exclusive of the stock dividend, to the original value of the property, would make about 69 millions, wouldn't it?—A. If the amount of 56 millions was increased during this period of time by just 13 millions, of course that would make about 69 millions. Just what that increase was during that
12506 period of time I have not in my head.

Q. Very well. That does appear in the case. You have, then, according to the record in evidence, paid out in dividends, up to and including 1906, $551,922,904.50. What were the dividends for the year 1907?

Mr. MILBURN. Same objection.

Mr. KELLOGG. Yes, the same objection.

A. I could not state.

Q. What was the rate of dividend?—A. You say that I say that we have declared dividends——

Q. I said the record shows that.—A. The record shows that?

Q. I asked you what the dividends were for 1907.—A. I can not state the exact amount. I should say they were about what they have been for the last two or three years.

Q. 40 per cent, was it not?—A. I should say 40 millions.

Q. To state it accurately, it was $39,335,320, wasn't it?—A. I do not know. So that would be about a million in favor of the poor old Standard.

Q. Yes, sir. Now, "the poor old Standard" also had a surplus of considerably over 40 millions, hadn't it, after paying that dividend?—A. I could not tell you, Mr. Kellogg, just what that surplus would be.

Q. Don't you know what the surplus of the Standard Oil Company for 1907 was—the annual surplus?

Mr. MILBURN. Same objection.

A. I could not tell you without having the earnings. I could readily tell you if I had the earnings to deduct from that the amount of the dividends.

12507 Q. Approximately, what were the earnings, the net earnings, for the year 1907?

Mr. MILBURN. Same objection.

Q. Please answer.—A. Am I to answer the question?

Q. Yes.

The EXAMINER. I understand counsel desire you to answer all these questions.

Mr. KELLOGG. Yes, sir.

Mr. ROSENTHAL. No, sir——

The EXAMINER. I am referring to counsel for the Government.

WITNESS. Yes, your honor.

Q. Please answer.—A. I should say in that neighborhood.

Q. In the neighborhood of what—86 millions?—A. I did not say 86 millions.

Q. Well, about how much were the net earnings?—A. I understood you to say that the net earnings were about 80 millions, or am I wrong in that, or did you say——

Q. I don't know, Mr. Rockefeller, what they were. I want to know.—A. I could not state what the net earnings were.

Q. They were in the neighborhood of 80 millions, weren't they?—A. It may be so; I can not state.

Q. I have no information on the subject. I would like to know what the net earnings of the Standard Oil Company were for the year 1907?

Mr. MILBURN. Same objection.

A. I could not state. I should say they were around 80
12508 millions.

Q. Very well. It appears by the record in this case, therefore, that the Standard Oil trustees and the Standard Oil Company have, including from 1882 down to and including 1907, paid dividends on the certificates and the stock amounting to a total sum of $591,258,000, in round numbers, and has a surplus of about 300 millions besides, on an original investment of about 69 million dollars. Do you think that is a risky business?—A. Do I think that is——

Mr. ROSENTHAL. Wait a moment.

Mr. MILBURN. I object to the question on this ground, that it assumes facts and statements of facts which are not justified by the evidence, which are not correct.

Mr. KELLOGG. Do you deny the statement of the dividends and the surplus which I made, as appears from the record [holding up paper for Mr. Milburn to look at]?

Mr. MILBURN. As I followed your question, if you wish my personal statement, I saw in it matters which I do not deem to be substantiated by the record.

Q. Please answer the question: whether, assuming that state of facts to be true, you consider that a hazardous business?—A. As I answered before, I think the question of profits does not determine the question of whether this is a hazardous business.

Q. If a business has been paying large dividends, and has been prosperous every year, increasingly prosperous every year, it is an evidence that it is not very hazardous, isn't it?—A. It is an evidence that it is prosperous.

12509 Q. I will take the last nine years, from 1899 to 1907, inclusive, and it appears by the record in this case that the company has paid 348 million dollars in dividends.

Mr. ROSENTHAL. Same objection as to the other.

Q. That is in nine years, or nearly 40 million dollars a year. Is that your recollection?—A. I could not state.

Mr. MILBURN. Same objection, on the ground that that pertains to a matter which is not covered by the direct examination.

Q. Does that not tend to show that the business is very stable and continuingly profitable, Mr. Rockefeller?—A. Am I to answer the question?

Q. Yes.—A. The business is prosperous.

Q. Were not the total profits during these eight years over four hundred and ninety millions?

Mr. MILBURN. Same objection.

A. I can not state as to that.

Q. Over 570 millions, I mean. Can you not say?—A. I can not state that.

Q. Well, isn't that about it? I show you the statement. It appears in the record for a period of seven years [handing witness book].—A. And this is a statement of the net earnings, Mr. Kellogg?

Q. That is a statement of the net earnings and the dividends for the years 1899 to 1906.

Mr. ROSENTHAL. What exhibit is that?

12510 Mr. KELLOGG. Exhibit No. 10.

A. I have here Exhibit No. 10.

Q. Now, what does it show the total net profits for the years 1899 down to 1906?

Mr. MILBURN. I object to that question on the same ground, that it does not pertain to any matter covered by the direct examination, and, furthermore, on the ground that the exhibit speaks for itself.

Mr. KELLOGG. I am going to add the year 1898.

Mr. MILBURN. And, so far as the witness is concerned, it is his knowledge and not what is contained in the exhibits.

Q. Does it not appear that the total profits for these years of 1899 to 1906 were 490 millions in round numbers?—A. Am I to answer?

Mr. MILBURN. You are to say what that paper shows. That is what he asks you.

Q. Mr. KELLOGG. Then I will ask him—please answer the question first.

A. That is what this paper shows, if these figures are correctly computed.

Q. Now, that was furnished by the Standard Oil Company. Isn't that substantially correct, as you recollect it?—A. I could not recollect about these profits.

Q. Add to that the profits, which you say were about 80 millions last year, and it would make 570 millions.—A. What do you mean by last year?

12511 Q. 1907. That is not included in that statement.—A. What is the question?

Q. I say, adding to that the net profits of 1907 would make about 570 millions, wouldn't it?

Mr. ROSENTHAL. 80 added to 490 would make 570.

Mr. KELLOGG. Well, I asked him. Please answer the question.

A. If you add to 490 millions 80 millions, and if 80 millions was the amount—whether it was or not, if you add 490 millions and 80 millions you have a result of 570 millions.

Q. Well, was 80 millions about your profits in 1907?—A. I should say so, approximately.

Q. Very well. Then, that would make the total profits for those years, according to your books, about 570 millions, wouldn't it, Mr. Rockefeller?—A. On this basis of calculation.

Q. Yes, sir. Now, will you tell me what element of hazard there is in that business?

Mr. MILBURN. Note my objection there.

A. In the first place, since the construction of our first refinery, near fifty years ago, we have been prepared at any moment, day or night, to hear the fire alarm. We are dealing with a very explosive product, from the crude oil itself and the very first product of the distillation. Fires are constantly occurring resulting in the destruction of the properties. A process of destruction has been going on since the beginning.

Q. Now, the profits which I name are over and above all those losses, are they not?—A. That is one element.

Q. But those losses are charged off to profit and loss, are
12512 they not?—A. The losses by the fires?

Q. Yes, sir.—A. Very likely they are.

Q. And they have occurred in the past, haven't they? Such fires have occurred?—A. Yes, sir.

Q. And the damage charged off?—A. Presumably so.

Q. And the profits I mentioned are over and above all such contingencies?—A. I assume these profits are what you state.

Q. Yes, sir. Now, is the manufacture of the crude oil the manufacturing company itself——

Mr. MILBURN. Mr. Kellogg, might I intervene there——

Mr. KELLOGG. Yes.

Mr. MILBURN. ——just to say that I do not understand that Mr. Rockefeller has completed his statement of the elements which constitute hazards. He named one.

Mr. KELLOGG. I should be very glad to have him name some more.

WITNESS. These refining properties, and largely all the appliances which we use in the manufacture and transportation of the oil are of a peculiar construction, adapted to this particular business. When we cease to get the product from the ground, this that we have spoken of as having a value would have a very different value, and it is true that in different periods, notably in the first twenty or thirty years or more of the business, I assume that no man engaged in this business of refining oil felt secure on account of surely getting
the oil to refine. That is another element of risk which in
12513 all those earlier years up to thirty years or more of the beginning of the business rendered it different from other businesses, where we knew more surely that we could have for the particular manufacturer the raw material.

Q. Then, the peculiar construction of refineries and properties is another element which you added?—A. The peculiar construction of refineries; yes, sir.

Q. Now take the earlier years, after the formation of the trust and from 1883 to 1896; you charged off every year a large deprecia-

tion to cover this same risk and hazard, did you not?—A. We were conservative in the keeping of our accounts. The question of whether we charged off the right amount, if any, with a view of meeting the contingencies, would have to be determined by the question of whether we should waken up the next day and find the oil was all gone.

Q. But you have wakened up a great many years and found it increasing, haven't you?—A. And we are very grateful for that, I assure you.

Q. I have no doubt.—A. The extreme anxieties.

Q. Now, the profits which you have earned have been over and above these depreciations which have been charged off?—A. We have assumed that these were fair estimates of the profits.

Q. Over and above the depreciation which has been charged off?

Mr. ROSENTHAL. The profits.

A. The profits, one thing; oh, yes.

Q. I thought so.—A. Yes; it is.

Q. Now, yesterday Mr. Milburn called your attention to
12514 an agreement which you had with the Pennsylvania Railroad Company, of October 17, 1877, wherein the Pennsylvania Railroad Company agreed to pay the Standard Oil Company 10 per cent of the rate which the Standard should pay on its freight. Do you remember that agreement?

Mr. ROSENTHAL. Paragraph 5 covers it [handing book to witness].

Q. That is the agreement your attention was called to yesterday?—A. Presumably.

Q. That agreement followed the rate war between the Pennsylvania Lines, you say, and the northern lines; is that correct?—A. If I am correct about the date; yes.

Q. Now, as I understand you, Mr. Rockefeller, this agreement was an agreement whereby you undertook—I refer to you as the Standard Oil Company—undertook to equalize the amount of freight between the various lines of road carrying oil from the oil regions to the seaboard?

Mr. ROSENTHAL. The agreement shows for itself, I assume.

Mr. KELLOGG. Well, he testified as to that.

Q. That is correct, is it?—A. I think so.

Q. And in that agreement you agreed: "We further agree that the quantity of oil which we will ourselves ship over your line shall not in any calendar year be less than 2,000,000 barrels, based upon an average production of not less than 30,000 barrels per day." You remember that?—A. I think that that was about the thing.

Q. Part of the agreement which Mr. Milburn read to you was
as follows: "That you shall allow to and pay us weekly such
12515 commission on our own shipments and the shipments which we may control as may be agreed to by your company and the other trunk lines from time to time; this commission, it is understood, has for the present been fixed at 10 per cent upon the rate, and shall not be fixed at a less percentage except by a mutual agreement of your company and ours." You remember that?—A. I think so.

Q. Now, that 10 per cent was to be made to you on all of your shipments, as it says here, on any of the trunk lines? That is correct, is it?—A. Was not that a contract of the Pennsylvania road, Mr. Kellogg?

Q. Yes; but it provides that you were to have the 10 per cent upon the shipments made on that company and the other trunk lines from time to time.

Mr. ROSENTHAL. No, no; that is not correct.

Q. Isn't that it?—A. Isn't that the Pennsylvania contract, Mr. Kellogg, to which you are now referring?

Q. That is, sir. What I wish to ask you is, Why was it necessary for the other trunk lines to agree to that 10 per cent commission to you?

Mr. ROSENTHAL. That is not what the contract recites.

Mr. KELLOGG. Let me read it again. Perhaps you did not get it clearly.

Mr. ROSENTHAL. The 10 per cent has no relation there, as I read that contract, to the other trunk lines.

Mr. KELLOGG. The agreement to pay the 10 per cent.

Mr. ROSENTHAL. No; the agreement with the other trunk
12516 lines relates to the percentage of shipments. It has no relation to the 10 per cent, as I read the contract. It is at least fairly subject to that interpretation.

Q. Well, didn't you have like agreements with the other trunk lines at the same time?—A. I can not state out of hand about other contracts at the same time.

Q. Look at subdivision 5.—A. And what does this refer to, Mr. Kellogg?

Q. This is the contract between the Standard Oil Company and the Pennsylvania Railroad Company of October 17, 1877, which I was asking you about.

(The witness was handed a book by Mr. Milburn.)

A. This is the Pennsylvania contract?

Q. Yes, sir.—A. Now, what clause do you call my attention to, Mr. Kellogg?

Q. Sir?—A. What clause is it?

Q. Section No. 5, where it provides that the Pennsylvania Company——A. What is the provision?

Q. "That you shall allow to and pay us weekly such commission on our own shipments and the shipments which we may control as may be agreed to by your company and the other trunk lines from time to time." Now, then, what was the agreement that the other trunk lines were to make with you from time to time?

Mr. ROSENTHAL. That relates to the percentage of shipments which is set out in the first paragraph of that letter.

Mr. KELLOGG. Does it?

Mr. ROSENTHAL. The very next sentence clearly indicates that.

12517 Q. What did this clause mean: "That you shall allow to and pay us weekly such commission on our own shipments and the shipments which we may control as may be agreed to by your company and the other trunk lines from time to time; this commission, it is understood, has for the present been fixed at 10 per cent." What did that mean?—A. I was not the gentleman who had the negotiation of these freight contracts. He would be here to-day if he were able. But I suppose, without knowing definitely about that, that that had to do with the—if the other roads are involved in this, I should have said offhand that this was a Pennsylvania contract. But such a reference as that I could not surely explain from any recollection in regard to it.

Q. Well, can you explain this: "Provided that no other shipper of oil by your line shall pay less than the rate fixed for us before such commission is deducted?" That means, does it not, that the other shippers of oil must pay the full rate and you got 10 per cent rebate on your rate?

Mr. ROSENTHAL. Not if you read the whole contract. You are only reading part of it.

A. I will have to take the whole contract, Mr. Kellogg.

Q. Well, I will read the whole: "Provided that no other shipper of oil by your line shall pay less than the rate fixed for us before such commission is deducted, and no commission shall be allowed any other shipper unless he shall guaranty and furnish you such quantity of oil for shipment as will, after deduction of commission
12518 allowed him, realize to you the same amount of profit you realized from our trade; that is, you will not allow any other shipper of oil any part of such commission unless after such allowance you realize from the total of his business the same total amount of profit you realize from the total of our business." What did that mean?—A. That reference would seem to indicate, in this hurried reading, the outlay in regard to a large volume of oil to be furnished by us for transportation.

Q. Yes, sir.—A. Rendering the railroad company a far better business than the irregular shipments, even at our higher prices. It would recognize possibly also (and I should judge it probably did) the obligation on our part in respect to—as to that I can not speak positively, because, as I say, I am not a freight expert. I judge that question of quantity which that might influence was there.

Q. Do you know of any other shipper who could furnish them the amount of business that you furnished?—A. I should say we were the largest, or among the largest shippers.

Q. Were you not by far the largest shippers?—A. Presumably we may have been.

Q. So that this was practically a payment to you of a drawback of 10 per cent on your shipments because you were large shippers, was it not?—A. It was nothing more or less than what was represented in the practice of those times in regard to oil and all other freights.

The man who could contribute a large regular volume of traffic was able to secure some consideration on that account, especially
12519 if he coupled with it other considerations of value in reference to the permanency of that freight.

Q. And you sought by this agreement to make sure that you got those considerations?—A. We sought by this agreement to do just what every shipper was doing and had been doing and has been doing since, to make a freight arrangement that was what we ought to have under the circumstances.

Q. Under this guaranty did you pay any freight on oil that you did not ship?—A. I have no recollection on that subject.

Q. Did you ship any oil to any place where you did not use the oil or need it in your business, in order to equalize the freight?—A. We shipped oil to ports to which we would have preferred not to ship it, in order to comply with the requirements of this contract.

Q. What ports?—A. The shipping ports were Baltimore, Philadelphia, New York, largely.

Mr. MILBURN. Boston?

Mr. KELLOGG. He did not give Boston.

WITNESS. Boston.

Mr. ROSENTHAL. Any place reached by the Pennsylvania.

Q. Now, the Pennsylvania Railroad reached New York and Philadelphia both.

Mr. MILBURN. Boston?

WITNESS. Yes.

Q. Did it reach Baltimore?—A. Yes.

Q. Now, to what one of these ports did you ship any oil
12520 that you would have preferred not to ship it to?—A. It would be quite impossible for me after 35 years to state definitely in regard to a matter of that sort. I know generally——

Q. I thought so.—A. ——that we did, that we held ourselves ready, and that we were prepared when we made that contract to carry it out.

Q. Yes.—A. We undoubtedly did divert our shipments, just as I said, but it would be impossible for me to tell you just when those shipments were diverted.

Q. In fact, you can't tell to-day that any shipments were diverted?—A. I have no doubt at all about the fact that they were diverted. We contemplated their divertion when we made the arrangement.

Q. Now, you had at that time refineries at Baltimore, Philadelphia, and New York Harbor? That is, your various companies in which you were interested?—A. Yes, sir.

Q. And you were shipping oil to all three places?—A. I assume so; yes.

Q. Now, this agreement was made at the time of the settlement of the Empire transportation row that you told about yesterday, was it?—A. Presumably soon after that. I can not speak definitely as to dates.

Q. Yes. Immediately after this agreement was made the railroad rates were very materially raised, were they not?—A. They
12521 were advanced, I believe, to a remunerative price. Cutting had been going on. They were all ready to get a reasonable price for hauling oil.

Q. That agreement seems to have been made on October 17, 1877. In your examination yesterday you spoke of the American Transfer Company which you acquired, or your interests acquired, some time in 1873 or 1874. Is that correct?—A. I should say so.

Q. So that in 1877 the Standard interests controlled the American Transfer Company?—A. Presumably so.

Q. Who was Mr. Daniel O'Day?—A. I do not know what his official title was.

Q. Who was he?—A. He was well known as Daniel O'Day.

Q. He was well known in the oil regions, was he not?—A. Oh, yes. Dan was very well known—a good fellow.

Q. He was connected with the pipe-line transportation?—A. He was.

Q. With the American Transfer Company?—A. I think he was; yes, sir.

Q. He was general manager of it, was he not?—A. I should say so.

Q. Yes, sir. In 1877——A. Whether general manager, the title I do not know, but he had largely to do——

Q. He had the management of it? He was at that time connected with your enterprises?—A. He was connected with that enterprise.

Q. That branch of the enterprise?—A. Yes.

12522 Q. That was one of the branches of your enterprises at that time?—A. Yes, sir.

Q. Now the Columbia Conduit Company, which you spoke of yesterday as being purchased during the season of 1877, was the conduit company running down the Allegheny River from the oil regions to Pittsburg?—A. Yes.

Q. So that in 1877 your interests controlled the Columbia Conduit Company?—A. Presumably so.

Mr. ROSENTHAL. After the purchase.

Mr. KELLOGG. After the purchase, yes. Is it not a fact that that purchase was made during the year 1877?

Mr. MILBURN. It is.

Mr. ROSENTHAL. Yes, it is.

Mr. WITNESS. I should say so, yes, Mr. Kellogg.

Q. I think that is right. Did Mr. O'Day have the management after the purchase of the Columbia Conduit Company?—A. That I could not state, Mr. Kellogg. You see——

Mr. MILBURN. Well, that answers it.

Q. Will you please turn to Exhibit No. 8 attached to the bill of complaint. I wish to call your attention to that exhibit [handing book to witness].—A. Exhibit No. 8?

Q. It purports to be a letter written by Daniel O'Day to A. J. Cassatt, third vice-president, Philadelphia. Who was Mr. Cassatt?—A. He was an official of the Pennsylvania Railroad.

Q. You knew him in those days?—A. I think I did.

Q. He is dead now, I believe?—A. I think Mr. Cassatt died two or three years ago; yes.

12523 Q. I wish to call your attention to that letter. Mr. O'Day states in that letter, among other things, as follows: "Dear Sir: Referring to the conversation I had with you in January, I wish to submit the following facts: That our company has, at large expense (involving the payment of several hundred thousand dollars), purchased and created certain pipe lines to Pittsburg, through which we are able not only to protect the Allegheny Valley road in a paying rate of freight for the oil it carries, but also secure to that company (by agreement with it) its full proportion of the oil traffic going to Pittsburg." And in the last clause of the letter he refers to the Columbia Conduit Company.—A. Do you go over now to the last clause of the letter, Mr. Kellogg?

Q. Yes, look at the last clause of the letter.

Mr. ROSENTHAL. Give us a chance to object to this question.

Q. In which he says: "During the season of 1877, and so long as the Columbia Conduit Company afforded the Baltimore & Ohio road access to the oil regions, that company, I understood, refused to accept from the other trunk lines (for its proportion of the oil traffic) less than twenty per cent, but after the purchase by us of the Columbia Conduit Company you succeeded in arranging with the Baltimore & Ohio for about half as much as they previously claimed. I may add that the Baltimore & Ohio road are wholly dependent upon us for any oil they may carry." Now had you acquired the Columbia Conduit Company when you made that agreement with the Penn-

12524 sylvania road on October 17, 1877?—A. I can not state the——

Mr. ROSENTHAL. That may go of record, that we had.

Q. That you had. Is that the arrangement which Mr. O'Day said the Pennsylvania was enabled to make with the Baltimore & Ohio after that purchase?

Mr. MILBURN. Just a moment. Will you please let me have that question?

(The official reporter read the question.)

Mr. MILBURN. I object to the question, and to all questions pertaining to the agreement, which is Exhibit 8 annexed to the petition, portions of which Mr. Kellogg has read to the witness, on the ground that there was no inquiry with respect to that agreement on the direct examination, and that the contract itself and its subject-matter are outside of the direct examination and not covered by it; and therefore as to this matter the witness is not our witness.

Q. Please answer the question. Will you read the last question?

(The official reporter read the question as follows: "Q. Is that the arrangement which Mr. O'Day said the Pennsylvania was enabled to make with the Baltimore & Ohio after that purchase?")

A. Do I understand, Mr. Kellogg, that you require me to answer?
Q. Yes, sir.—A. Notwithstanding the objection of my counsel?
Q. Yes, sir; I do.—A. Then what is the question?
Q. Perhaps I had better repeat the question: Is the arrangement which Mr. O'Day says the Pennsylvania was enabled to make
12525 the arrangement for 11 per cent which was referred to in Exhibit 7 about which you testified yesterday?
Mr. DURAND. 11 per cent to the B. & O.
Q. 11 per cent to the B. & O.—A. I will have to refer—I do not recall 11 per cent yesterday.
Q. Well, in the Exhibit No. 7.—A. I do not recall any division. It was not brought to my mind. Do I understand you, giving the Baltimore 11 per cent?
Q. Yes, sir.
Mr. ROSENTHAL. That is what Exhibit 7 provides.
Q. Exhibit 7, where you were paid 10 per cent commission, that Exhibit 7 gives the Baltimore & Ohio 11 per cent?—A. I do not recall.
Q. Now I want to know if the arrangement which Mr. O'Day says the Pennsylvania was enabled to make was the arrangement which they made as a part of Exhibit 7, the settlement with the Empire Transportation Company business?—A. From my knowledge I could not speak.
Q. You can't say. Well, I show you the next clause in the agreement.—A. I had nothing whatever to do with it.
Q. I will read you the next clause, "I here repeat what I once stated to you, and which I asked you to receive and treat as strictly confidential, that we have been for many months receiving from the New York Central and Erie railroads certain sums of money, in no instance less than 20 cents per barrel, on every barrel of crude oil carried by each of those roads." Where do we find this clause?—A. The first paragraph of the letter of Dadiel O'Day to Mr. Cas-
12526 satt, of February 15, 1878, at the end of the first paragraph, commencing with the words "I here repeat."
Q. What is the date of the letter, Mr. Kellogg?—A. February 25, 1878.
Mr. MILBURN. Page 231.
Mr. KELLOGG. He has got it right before him, I think.
A. I have 232; thank you, Mr. Kellogg. Am I to answer the question?
Q. Yes.—A. What is the question, then?
Q. I just called your attention, did I not, to that? Now I will read on. I did not ask a question. I just read you that clause which I wanted you to notice: "Cooperating, as we are doing" (follow me on, please) "with the Standard Oil Company"——A. That is the second clause?
Q. Yes. "Cooperating, as we are doing, with the Standard Oil Company and the trunk lines in every effort to secure for the railroads paying rates of freight on the oil they carry, I am constrained

to say to you that in justice to the interest I represent we should receive from your company at least 20 cents on each barrel of crude oil you transport. The fruit of the cooperation referred to has been fully evidenced in the fact that since last fall your company has received 50 to 60 cents per barrel more freight than was obtained by it prior to our cooperation. In submitting this proposition I feel I should ask you to let this date from the 1st of November, 1877, but I am willing to accept as a compromise (which is to be regarded as strictly a private one between your company and ours) the
12527 payment by you of 20 cents per barrel on all crude shipments commencing February 1, 1878." I now call your attention to Mr. Cassatt's reply in which he accepts that proposition. Did your company, the American Transfer Company, receive that 20 cents per barrel, not only on the oil you shipped over the Pennsylvania oad, but on the oil of the outside shippers?

Mr. MILBURN. Same objection.

A. I could not state from my recollection anything about it.

Q. Did you ever know of that letter, Mr. Rockefeller?—A. I could not state that I did. I have no recollection—it was not in my department of work.

Q. Have you not familiarized yourself with the letter?—A. My attention has been called to it.

Q. Before to-day?—A. My attention has been called to it.

Q. Heretofore—before to-day?—A. I think so.

Q. Now, do you know that Mr. Daniel O'Day and Mr. A. J. Cassatt both testified that the American Transfer Company was not only paid the 20 cents per barrel upon the oil which you shipped, that is, the Standard companies, but on the oil of outside shippers?

Mr. MILBURN. I object to that question on the same ground, and also upon the further ground that it is improper to ask the witness as to what other witnesses testified in other proceedings.

Mr. KELLOGG. Please read the question.

(The official reporter read the question as follows: "Q. Now, do you know that Mr. Daniel O'Day and Mr. A. J. Cassatt both
12528 testified that the American Transfer Company was not only paid the 20 cents per barrel upon the oil which you shipped, that is, the Standard companies, but on the oil of outside shippers?")

A. My attention may have been called to such testimony.

Q. During those years you were intimately connected with the management of the Standard Oil businesses?—A. My position was that of the president of the Standard Oil Company of Ohio. My relation was a general relation.

Q. But you assisted in the negotiation of this contract with the Pennsylvania Railroad——

(The witness shook his head.)

Q. ——wait a moment—Exhibit No. 7, which provided for the payment of that 10 per cent?—A. Not at all.

Q. It was signed by the Standard Oil Company by William Rockefeller, vice-president?—A. That may be.

Q. You were present you said at the purchase and negotiation for the purchase of the Empire Transportation Company properties, were you not?—A. I was.

Q. And that purchase resulted in the settlement of the freight rate difficulty and the execution of that contract, Exhibit 7, did it not?—A. I think it did.

Q. And one of the considerations of that contract was the 10 per cent drawback, was it not?—A. Of the Pennsylvania contract?

Q. Yes, sir.—A. If it is here in the contract——

Q. Yes, sir.—A. ——it must be so.

Q. Yes. The contract that Daniel O'Day made with the Pennsylvania Railroad was made only three months later. Do
12529 you say you did not know of that contract?—A. I say that I had nothing whatever to do with the negotiation of that contract.

Q. Did you know of it at the time?—A. Presumably I knew generally about it.

Q. Was it true that it was made, and that you did receive the 20 cents per barrel as so stated in the letter?

Mr. MILBURN. Same objection, that is, the main objection.

Mr. ROSENTHAL. It has already been answered, too.

Mr. KELLOGG. Well, wait a minute.

A. What is the last question, Mr. Kellogg?

Mr. KELLOGG. Please read the question.

(The official reporter read the question, as follows: "Q. Was it true that it was made and that you did receive the 20 cents per barrel as so stated in the letter?")

A. It is true, I judge, that it was made. To what extent anything was received under it I do not know——

Q. Very well——A. ——from my recollection.

Q. Do you remember of the subject being agitated at a subsequent time, when suits were brought against the Pennsylvania Railroad Company and the United Pipe Lines Company and others, in 1878 or 1879—no, perhaps it was later than that.

Mr. DURAND. 1889.

A. I do not recall much litigations at the moment.

Q. Do you recall Mr. O'Day being called on to testify in relation to the subject?—A. I do not recall that.

Q. Let me refresh your memory by reading——A. I do not know that he was not.

Q. ——from the testimony of Mr. Daniel O'Day.

12530 Mr. MILBURN. You have got it all in the record.

Mr. KELLOGG. I want to refresh Mr. Rockefeller's memory, as follows——

Mr. ROSENTHAL. It is not properly in this record at all, Mr. Kellogg.

Mr. KELLOGG. Oh, yes.

Mr. ROSENTHAL. I have already called you attention to that. You have got it in on a false certificate.

Mr. KELLOGG. A false certificate?

Mr. ROSENTHAL. Yes.

Mr. KELLOGG. Oh, not at all, sir.

Mr. ROSENTHAL. You don't——

Mr. KELLOGG. I will read the stipulation: "It is further stipulated that this waiver of proof shall also apply to the testimony of each and all of the witnesses who testified in the case of the State of Missouri, on the information of Herbert S. Hadley, attorney-general, against the Standard Oil Company of Indiana, Waters-Pierce Oil Company, Republic Oil Company"——

Mr. ROSENTHAL. There is not any use in stopping and wasting any time on it. You and I and Mr. Graves have had some conferences concerning that certificate, and you agreed to investigate.

Mr. KELLOGG. No, sir.

Mr. ROSENTHAL. Mr. Morrison——

Mr KELLOGG. Oh, no; the only question is whether Mr. O'Day testified in one suit or another, but both of them are registered here or scheduled here.

Mr. ROSENTHAL. The question went to the verity of the
12531 certificate.

Mr. KELLOGG. It did not go to the verity of the fact that he appeared and testified, but which case.

Mr. ROSENTHAL. All right; but I think we will have to straighten out the record of that by conference.

Q. I call your attention to the testimony of Mr. O'Day, given on May 28, 1887, in the case of Adolph Ladenberg against the Pennsylvania Railroad, in which he testified as follows: "Q. I can understand a shipper trying to get a concession from the open rate in his own favor, but I would like you to explain to me why you expected in addition to that to get a part of the freight paid by somebody else to the railroad company?—A. I could not tell you why. Q. Well, did you expect it?—A. I did. Q. And you got it?—A. I asked for it. Q. And you got it?—A. Yes, on our own shipments, and I believe I got it on all the shipments at that time. Whether I did or not I have no special means of knowing." Was your attention at the time called to that testimony?

Mr. MILBURN. Same objection.

A. I don't recall now that testimony, Mr. Kellogg. I might have done, but I don't recall it.

Q. Is it not a fact that in various suits in Pennsylvania, suits brought by the State against the Pennsylvania Railroad and the United Pipe Lines, that Mr. Cassatt testified to substantially the same rebates paid to the American Transfer Company?—A. I do not recall it. It may have been so. Nor do I recall what you state about the suits against the pipe lines.

12532 Q. Do you recall that there was a suit by the State of Pennsylvania in 1878 against the United Pipe Lines, which you then controlled?

Mr. MILBURN. I object to that on the same ground, that it is a subject not at all referred to or covered by the direct examination.

A. I do not recall it.

Q. You do not recall it?—A. It may have been. I do not recall it.

Q. Well, at the time these rebates of 20 cents per barrel were paid to the American Transfer Company, did you know of it?—A. I could not state from my recollection. I would not necessarily know about such things.

Q. Did you know about it in a general way?—A. I could not state.

Q. You do not know that they were not so paid?—A. I do not know whether I knew it at the time or not. I could not state that. My mind was engaged in very much more important problems.

(A recess was here taken until 2 o'clock p. m.)

12533 AFTERNOON SESSION.

JOHN D. ROCKEFELLER, recalled, and his cross-examination resumed, as follows:

By Mr. KELLOGG:

Q. Mr. Rockefeller, in those early days, prior to the construction of pipe lines from the oil regions to the seacoast, the rates of transportation for carrying oil, both crude and refined, were very important to the industry, were they not?—A. They had their bearing.

Q. Those rates entered to a very considerable extent into the cost of the product, did they not?—A. Depending upon the price of the freight.

Q. And when those rates were $1.50 or $1.90 or $1.45 a barrel it was a very considerable portion of the product?—A. Oh, no.

Q. Is not $1.50 a barrel on crude oil quite a considerable cost entering into the product?—A. I suppose it would depend upon whether the price of oil was $1 or $10.

Q. Why certainly. It amounted to about 3 cents a gallon of crude oil. $1.50 a barrel was about 3¢ a gallon of the crude oil, was it not?—A. Yes.

Q. In speaking of barrels of oil you refer to barrels of the ordinary 42 gallons?—A. That I believe was the barrel for the crude, 42 gallons.

Q. Then the railroad rates were matters of considerable importance in the cost?—A. The railroad rates were matters of consider-
12534 able cost. I should say the railroad rate had its bearing upon the cost.

Q. Along in 1874 and 1875 the price of refined oil for export in bulk, in New York, was as low as 12 cents a gallon, was it not?—A. I do not recall the price, Mr. Kellogg.

Q. You do not remember that?—A. I do not recall the prices.

Q. Do you recall that it was along about that?—A. No, I could not tell.

Q. Now, prior to the construction of pipe lines to carry the crude to the seaboard, the rate of freight on the railroads was much more important than afterwards, was it not?—A. Will you kindly give me that again, Mr. Kellogg? Please read the question.

The question was read as follows: "Now, prior to the construction of pipe lines to carry the crude to the seaboard, the rate of freight on the railroad was much more important than afterwards, was it not?"

A. More important if the roads carried it all, before the pipe lines, in that view.

Q. A large proportion of the oil was exported at that time, wasn't it?—A. I do not know, Mr. Kellogg, the proportion of the export to the domestic trade.

Q. But a large amount was exported?—A. A large amount was, a large percentage of the——

Q. And about 1881 the Standard's refineries or affiliated refineries obtained their crude by shipment by rail, did they not?—A. I do not recall when they began to get the crude oil to Cleveland.

12535 Q. To the seaboard, I am talking of.—A. To the seaboard? Prior to 1881?

Q. Yes.—A. They hauled the crude oil——

Q. Which the Standard refineries shipped to the seaboard, was shipped by rail? I am talking of the crude.—A. I should say so, unless that was before the—Oh, you say before the construction of the pipe lines?

Q. Yes.—A. Yes, sir.

Q. Now you say you did not have direct charge of the railroad rates, transportation, during these years. Who did?—A. Our Mr. Flagler in all those earlier years had that specially in charge.

Q. Mr. Archbold also?—A. I think at a later date Mr. Archbold did have somewhat to do with it, but Mr. Flagler chiefly in those earlier years.

Q. Did Mr. William Rockefeller have anything to do with them?—A. I should say not specially, although he might have had more or less to do.

Q. But important matters, like the arrangement with the Pennsylvania Railroad, you had to do somewhat with personally?—A. I had to do with that particular matter, Mr. Kellogg.

Mr. ROSENTHAL. What particular matter?

WITNESS. Well, Mr.——

Q. You mean the subject which you testified as to the——

Mr. ROSENTHAL. The Empire?

Q. The Empire.—A. Do you refer, Mr. Kellogg, to an interview which Mr. Warden and Mr. Flagler and I had with Col. Scott?

Q. Yes, I refer to that, which resulted in the consummation of Exhibit 7.—A. I did participate in that interview.

12536 Q. Now, shortly after that, say about 1878, do you remember that the State of Pennsylvania brought a suit against the United Pipe Lines, a corporation of Pennsylvania, to oust that com-

pany from the State of Pennsylvania on the ground that it had entered into a conspiracy with the Pennsylvania Railroad to obtain rebates, drawbacks, and preferential rates?

Mr. MILBURN. We object to that question on the ground that the subject of it was not referred to on the direct examination, was not in any way covered by the direct examination, and as to which the witness will be a witness for the Government.

Q. Please answer.—A. I do not recall. No doubt, if there was such a litigation, I had general knowledge of it at the time.

Q. I wish to call your attention specifically to the first article of that agreement, which provides——A. Is it Exhibit 10?

Q. 10, if you please, yes. "Articles of agreement made the 29th day of January, 1880, by and between the Standard Oil Company, a corporation of the State of Ohio; the Standard Oil Company, of Pittsburg, a corporation of the State of Pennsylvania; the Imperial Refining Company (Limited), of Oil City, Pa.; the Acme Oil Company, of New York and Pennsylvania; the Atlantic Refining Company of Philadelphia; the American Transfer Company; the United Pipe Lines, a corporation of Pennsylvania; the Devoe Manufacturing Company, of New York; the Eclipse Lubricating Oil Company (Limited), of Franklin, Pa.; John D. Rockefeller, William
12537 Rockefeller, Henry M. Flagler, William G. Warden, Charles Lockhart, William Frew, Charles Pratt, Henry H. Rogers, Jabez A. Bostwick, Jacob J. Vandergrift, O. H. Payne, John D. Archbold, respectively, buyers, refiners, and carriers of petroleum, parties of the first part, each, however, contracting severally for himself, themselves, or itself, and not one for the others, and Benjamin B. Campbell, for himself and as president of the general council of Petroleum Producers' Union, and for the members thereof." Were those companies so recited in there the companies about which you testified yesterday, and in which you testified in a general way you and your associates obtained interests?—A. I should say so; yes, sir.

Q. And the individuals were the individuals associated with you and those companies and interested in the Standard Oil?—A. I should say so; yes, sir.

Q. If you will turn to page 239 you will see this agreement was executed by all of those parties whose names I have read, and the corporations I have stated. Is that true?

Mr. MILBURN. Now, before you answer that, let me get a general objection. I object to this question and all questions pertaining to the transaction which is embodied in Exhibit 10 to the petitioner's bill, and to the agreement which is Exhibit 10, on the ground that it is not proper cross-examination and that the subject-matter of the question was not covered by or touched upon or referred to in the direct examination.

Mr. KELLOGG. That objection may be considered as interposed to each question, with the same force and effect, and all the rights, as though it was repeated each time.

Mr. MILBURN. Thank you.

12538 Mr. KELLOGG. Is that satisfactory?

Mr. MILBURN. Certainly.

Q. Now, if you will answer the question.

(Question read, as follows: "If you will turn to page 239 you will see this agreement was executed by all of those parties whose names I have read and the corporations I have stated. Is that true?")

Mr. ROSENTHAL. That involves simply the identification of names in the first paragraph with the signatures.

Mr. KELLOGG. Yes, sir; that is the object of it.

Mr. ROSENTHAL. I think there is no doubt about that.

WITNESS. I should say so.

Q. You personally executed that agreement?—A. Presumably so.

Q. Now, do you remember that that agreement provided for the settlement and dismissal of the suit of the State of Pennsylvania against the United Pipe Lines?—A. I should not have recalled it, Mr. Kellogg. I see it here.

Q. Have you no recollection of the transaction?—A. I recall generally something of this character.

Q. Have you looked over this agreement lately with a view of refreshing your memory as to that transaction?—A. I do not think I have, Mr. Kellogg.

Q. That suit was pending for some time, was it not?—A. That I could not say, Mr. Kellogg, from my recollection.

Q. It was a very important matter to the Standard Oil, was it not?—A. Well, it might or might not have been, Mr. Kellogg.

12539 Q. There were other suits, were there not, against the Pennsylvania Railroad to oust that company for having entered into agreements with the United Pipe Lines?—A. That I could not say.

Q. Did you testify in those cases?—A. That I do not recall. I may have done so.

Q. Did Mr. Cassatt testify in those cases?—A. That I could not say. I suppose he may have done so.

Q. Don't you recollect of Mr. Cassatt having testified to large rebates paid both to the Standard Oil Company and to the American Transfer Company and the United Pipe Lines?—A. I might have been acquainted with that testimony, Mr. Kellogg.

Q. Was it a fact, Mr. Rockefeller, that such rebates were paid to those companies by the Pennsylvania Railroad?

Mr. MILBURN. To that question I object, on the ground that that subject was not covered by the direct examination and is not proper in cross-examination.

Q. Please answer the question. Please read it to Mr. Rockefeller.

(The official reporter read the question, as follows:)

"Q. Was it a fact, Mr. Rockefeller, that such rebates were paid to those companies by the Pennsylvania Railroad?")

Mr. ROSENTHAL. When?

Q. Prior to the institution of that suit, in the years 1877 and 1878?—A. I do not recall about that question of whether they were paid or were not paid. It would not be a matter that would be——

Q. Don't you remember in a general way that such were
12540 paid?—A. I had nothing to do with the question of payments or receipts of them.

Q. Now, let me read two clauses of the contract, at the top of page 237, and see if that will refresh your memory:

"1. That the said parties of the first part"—that includes the Standard Oil and those other companies which I read—"shall and will make no opposition to an entire abrogation of the system of rebates, drawbacks, and secret rates of freight in the transportation of petroleum on the railroads.

"2. That said parties of the first part further agree that the railroad companies may make known to the other shippers of petroleum on their several roads all the rates of freight, and that said parties of the first part, or any of them, will not receive any rebate or drawback that the railroad companies are not at liberty to give to other shippers of petroleum."

Does that refresh your recollection at all, Mr. Rockefeller?—A. I do not recall about it. I assume that it must have been so, else it would not have been here, Mr. Kellogg. I say this was a number of years after I ceased to be a participant in the management of railroad freight questions.

Q. I know, but you signed that contract?—A. Oh, yes.

Q. And it apparently was an important settlement of the suit against one of your companies?—A. Yes; oh, yes.

Q. And the various companies with which you were connected there agreed that they would abrogate rebates, and that the railroads might make known to the other shippers of petroleum the rates of freight that your companies were receiving?—A. Yes.

12541 Q. Now, what would that mean—that they had received rebates and drawbacks which were not known to the other shippers? Is not that true?—A. That language I do not undertake to construe, Mr. Kellogg.

Q. But you would not have signed such an agreement unless your companies had been receiving rebates which were not known to other shippers, would you?—A. Well, I can not answer, you know, about a question of that kind at this date. I do not recall anything about it personally.

Q. But in a general way you know, Mr. Rockefeller, do you not, that there was a good deal of agitation at that time about these companies you represented receiving rebates from the Pennsylvania Railroad?—A. I do not recall about the dates of such agitation, if there were. I could not fix dates, Mr. Kellogg.

Q. Was there such agitation at some time?—A. There was trouble about the question of freight rates at some time.

Q. Shortly before this contract was signed?—A. I could not state when that was, Mr. Kellogg, from my recollection.

Q. Referring to Exhibit 7 again, which was the Empire Transportation agreement—that is, the agreement with the Pennsylvania road for a division of rates, where you were to receive 10 per cent commission, as you called it—I wish to read to you a question and answer of Mr. Cassatt, or which purports to be a question and answer, in relation——A. Mr. Kellogg, will you kindly give me——

Mr. ROSENTHAL. Exhibit 7.

12542 Q. Exhibit 7 is the one.

Mr. ROSENTHAL. Page 227.

WITNESS. Thank you.

Q. I ask you to listen to what purports to be a question put to Mr. Cassatt and his answer thereto in the case of the State of Pennsylvania against the Pennsylvania Railroad, pending in 1878—— A. Mr. Kellogg, pardon me. This exhibit that I have, No. 7 on page 2——

Mr. ROSENTHAL. He has not finished his question.

Mr. KELLOGG. I have not finished the question.

WITNESS. Oh, I beg your pardon, sir.

Q. I will read this to you: "Q. Mr. Cassatt, why could not an agreement be made between these trunk lines as to a division of the traffic without paying the rebates to the Standard and the American Transfer Company? Why could it not be made and enforced between them just as well?—A. It could be if they would agree to it. We, as I said before, during the contest with the Standard Oil Company and the other trunk lines, made repeated efforts to get them to agree to some arrangement by which the oil could be divided in quantity, and by which rates could be maintained. We suggested several plans which were entirely feasible, I think. They objected to going into any arrangement, for the reason that they thought the power of the Standard was such that they would seek other outlets than the trunk lines." Does that refresh your memory as to one of the reasons why that pool agreement was made?

Mr. MILBURN. I object to that question as improperly assuming that such testimony was given, and on the further

12543 ground that it is not proper cross-examination.

Q. Please answer the question.—A. Will you kindly repeat the question again?

Q. I asked you if that refreshed your memory as to one of the reasons why this Exhibit 7 was made with your company?—A. I do not recall that, Mr. Kellogg, that which you have read.

Q. You don't recall it?—A. I do not at this time recall that which you have read. These questions were not passing to me for determination—such questions—as I was not making these negotiations.

Q. You took part in those negotiations, did you not?—A. I did not take part in the freight negotiations for some years previous to this date I should say, Mr. Kellogg.

Q. I wish further to call your attention to what purported to be Mr. Cassatt's testimony: "Q. Mr. Cassatt, you have stated that one reason why"——A. Pardon me, Mr. Kellogg. Have I it here in this document before me?

Mr. ROSENTHAL. It is not there.

Mr. MILBURN. It is not there. Mr. Kellogg is reading from something else.

Q. "Mr. Cassatt, you have stated that one reason why, in the consultation at Saratoga in July, 1878, you were driven to putting down the rates, was that a new route had been arranged by outside refineries by way of Buffalo and the canal. What was it that drove those outside refineries to the construction and arranging of that route? Was it not the fact that they could not get the same rates over the
12544 trunk lines that were offered by them to the Standard Oil Company?—A. I believe that it was. We stated frankly, I did, to the outside refineries, and also did Mr. Scott, the president of our company, that unless they would guarantee us the same quantity of oil, guarantee to ship over our lines the same quantity of oil that the Standard Oil Company had guaranteed to ship, we could not make them the same rates; we would make lower net rates to the Standard than they got." Do you remember that?

Mr. MILBURN. Same objection as the last stated.

A. Do I recall that testimony?

Q. Yes, sir.—A. No, I do not recall it, at the time.

Q. Do you recall the fact that such was the case?—A. No, I do not remember about that testimony.

Q. Do you recall the fact that a route was established by the Equitable Pipe Line, in connection with the Erie Canal, through Buffalo?—A. No, I do not recall that, Mr. Kellogg.

Q. Do you recall the fact that Mr. Lombard and others were connected with that pipe line and shipped oil that way during the summer?—A. I do not recall it at the moment. I may have known it at the time.

Q. Was it a fact that the Pennsylvania Company did refuse to ship at the same rate for other parties unless they shipped as much as the Standard did?—A. I could not say, Mr. Kellogg.

Q. What is your general recollection about the subject?—A. I have no recollection about it at all, Mr. Kellogg.

Q. Did you ever have any conversation with Mr. Scott about that subject?—A. Never that I recall, sir.

Q. How is it that you recall particularly the arrangement whereby you were to receive 10 per cent from the Pennsyl-
12545 vania Railroad, which you testified to yesterday, and can not recall these other incidents of larger payments?—A. I suppose, Mr. Kellogg, that my attention has been called to this, and therefore it was in my mind.

Q. Is it possible that this suit was going on against your company in the State of Pennsylvania, for having conspired with the railroads

to obtain rebates, that Mr. Cassatt was called and examined, and Mr. O'Day and others, and that you have no general recollection of ever having heard of it?—A. I presume we knew about it at the time, Mr. Kellogg, generally, if there were litigations.

Q. Now, generally, is the statement of your company having received those rebates true?—A. That I can't say from my recollection, Mr. Kellogg.

Q. You say the subject of receiving rates at that time below the tariff rate came to your attention, did it not?—A. Did I say so, Mr. Kellogg?

Q. I so understood you.—A. I say generally that if this was the case, that I may have had this knowledge—probably may have had the knowledge at the time, Mr. Kellogg.

Q. I would like to call your attention, then, to the agreements which Mr. Milburn specifically examined you about yesterday, the so-called terminal agreements, whereby your company, the Standard Oil Company, obtained the use of the terminals of the Erie road and the New York Central road. They were Exhibits 3, 4, and 5 attached to the petition?—A. Yes.

Q. You have some recollection about those agreements?—A. Yes, my memory has been refreshed generally in reference
12546 to those agreements. They were not agreements that I had anything to do with personally.

Q. Then we will take Exhibit 5, which was the contract, or one of the contracts by which the Standard Oil Company obtained the use of certain terminals from the New York Central and the Lake Shore road (pages 217, 218, and 219). Referring to page 219, this was an agreement between the Standard Oil Company and the New York Central road, was it not? Look at the first part of it.—A. Yes, Mr. Kellogg.

Q. Now that agreement provides, on page 219, that unless otherwise consigned it will deliver upon said wharves at Hunters Point all petroleum and the products of petroleum transported in packages over its railroad to the port of New York. That is, is it not, that the New York Central and the Lake Shore delivered to the terminals which you leased all the oil transported for any person over the New York Central road?—A. I do not recall as to the shipments of others that were delivered to our warehouses. That may have been. We were acting in the capacity of the warehousemen there, I assume from this.

Q. In addition to the warehouse, you got the terminals on which the cars were switched, did you not?—A. We had the terminal, perhaps.

Q. That is, you leased by this agreement the terminal properties of the New York Central road?—A. Well, we owned the terminal property at Hunters Point, I believe, Mr. Kellogg.

Q. You owned a part of it and you leased the balance from the New York Central?—A. I do not recall that we leased any

12547 part of terminals at Hunters point from the New York Central, Mr. Kellogg.

Q. Then this was an agreement whereby the Hunters Point terminal was to be the terminal of the New York Central road for the delivery of all oil, was it not?—A. It surely was for our oil, Mr. Kellogg.

Q. Didn't it include everybody else's?

Mr. ROSENTHAL. Does not the agreement show for itself?

Mr. MILBURN. Look at the agreement, Mr. Rockefeller, and then answer.

Q. You testified about it yesterday?—A. Mr. Kellogg, would you kindly give me the page? Oh, I think I have it here.

Q. 219?—A. 219?

Q. Yes.—A. (Referring to document.) I judge from this that the shipments would include also the shipments of others.

Q. And for the service of receiving those shipments of others you charged a fee or a rate?—A. This warehouse consideration, I assume, Mr. Kellogg.

Q. In other words you, the Standard Oil Company, assessed a terminal charge on other people for their oil delivered in your terminal?—A. A legitimate warehousing charge, I suppose, Mr. Kellogg.

Mr. MILBURN. Fixed by the railroad companies.

Q. Now, the railroad also paid you 10 per cent of the rate for transporting that oil, did it not?—A. To cover this warehouse consideration, I suppose, Mr. Kellogg.

Q. Didn't you, in addition to what the railroad paid you, charge the independent shipper a charge for warehousing and handling his oil?

Mr. ROSENTHAL. I don't think so under that agreement.

12548 Mr. MILBURN. Let us see. The agreement speaks for itself.

Q. The agreement provides (page 218): "The party of the first part also agrees to make its charges uniform to all parties who use said warehouses, wharves, and piers, or for whom service is therein performed, and as low, therefore, as any other party may charge who are or may be doing a similar business, and affording equal facilities at or near the terminus (for the port of New York) of any other carriers competing with the party of the second part."

Mr. MILBURN. That is the service they were to render.

Q. Now, is it not true, therefore, that in addition to the 10 per cent of the rate paid you by the New York Central Company the shippers of oil paid you a terminal charge for handling their oil?—A. I have reviewed this. I have understood that we had there a warehousing charge. This 10 per cent was practically about a fair warehousing charge.

Mr. ROSENTHAL. There is not any 10 per cent charge.

Mr. MILBURN. There is no charge of 10 per cent in this agreement.

WITNESS. That is the way it has lain in my mind from this refreshment. I have no recollection of the transaction of thirty years ago, a minor transaction of that character.

Q. You did charge the independent shipper a charge for handling his oil, didn't you?—A. I could not tell you from my recollection, Mr. Kellogg, what happened in those days in regard to that question.

Q. I thought as you were explaining this contract yester-
12549 day, you would be able to tell us about that.—A. Yes, Mr. Kellogg, and as I have already stated to you, I carried this in my mind as the warehousemen's consideration, a legitimate consideration for the warehousemen. That is what I have carried in my mind, sir.

Q. You don't remember what you did charge the independent?—A. I have no recollection of it.

Q. You did not receive and deliver their oil for nothing?—A. I do not know why we should be asked to perform services for nothing, for our competitors or anybody else.

Q. Now, you also had an agreement with the Erie Railroad, and the Atlantic & Great Western, which was connected with the Erie, for the use of the Erie's terminals, did you not?—A. I believe we did, Mr. Kellogg.

Q. Now, what other road was delivering oil to the New York harbor?—A. Beside the New York Central and the Erie?

Q. Yes, sir.—A. The Pennsylvania, you know, Mr. Kellogg.

Q. Did you have an arrangement at the same time with the Pennsylvania Company for the use of its terminals?—A. I do not recall that we did at that time.

Q. Did you about that time?—A. Not that I recall.

Q. Do you remember the National Storage Company?—A. I do.

Q. Was that a company which was a terminal company receiving oil from the Pennsylvania road?—A. I think it was, Mr. Kellogg.

Q. Did you acquire that company?—A. Not, I think, at this time, Mr. Kellogg, if ever.

Mr. ROSENTHAL. Not until 1881.

12550 Q. Did you shortly after this, about 1880 or 1881?—A. I could not say at what time, if at all.

Q. Was the National Storage Company a company which controlled the oil terminals of the Pennsylvania road?—A. I should say that it was one of the terminals of the Pennsylvania road. I know nothing about the National Storage Company controlling the oil terminals of the Pennsylvania road.

Q. You would say that the National Storage Company was one of the terminals of the Pennsylvania road?—A. Was a storage company which was used by the Pennsylvania road, Mr. Kellogg.

Q. Where was its property situated?—A. Over here at——

Q. Jersey City?—A. At Communipaw, is that.

Q. Communipaw?—A. Do I mean Communipaw? I think so.

Q. Very well. Then the National Storage Company's property was a property used as an oil terminal for the Pennsylvania road, was it?—A. I so understand it, Mr. Kellogg.

Q. Now, was that storage company controlled by the Empire Transportation Company?—A. I could not say that it was controlled

by the Empire Transportation Company. It would rather be my impression that it might have been the Pennsylvania, but I could not at this moment from recollection state that, Mr. Kellogg.

Q. Did you not, at the time you acquired the Empire Transportation Company's pipe lines and refineries also acquire the use of the oil terminal controlled by the National Storage Company?—A. That I can't say from my recollection, Mr. Kellogg. We may have done so, but I can't remember about that.

12551 Q. Did your company not have the use of those oil terminals?—A. I say I could not speak from my recollection as to that, Mr. Kellogg.

Q. Then I will put the question in this way: Did your company, or some of the affiliated companies, not have the use of those storage terminals between 1875 and 1881?—A. That I could not state from my recollection.

Q. You recollect in a general way of getting the use of these oil terminals of the other roads, don't you?—A. I do, to the extent already referred to.

Q. For how many years after these contracts which you testified to yesterday did your companies or the affiliated companies control the oil terminals of the New York Central and the Erie road?—A. I could not state that.

Q. A good many years, didn't they?—A. I should not think for a long time at the old Erie docks. Our own facilities were made ample elsewhere, and my judgment would be, Mr. Kellogg, that it would not have been necessary for us to continue the additional yard there.

Q. How many years did you?—A. I do not know.

Q. How many years did you control the terminals of the New York Central?—A. That I could not tell. You see, Mr. Kellogg, the gentlemen receiving the oil here would have such questions in hand. In those years my residence was in the West. That you see fell upon the men managing the affairs here, a matter of detail in the business.

Q. I notice by Exhibit 3, attached to the petition, which you testified to yesterday (page 208), that subdivision 3——A. Yes, sir.

12552 Q. That it was agreed that the "rates of freight on all of said products to be made from time to time between J. H. Devereaux, president of the Atlantic & Great Western Railroad Company, and the Standard Oil Company, the same to be to the satisfaction of the said J. H. Devereaux, president." Do you recollect that?—A. I undoubtedly knew about this, Mr. Kellogg, at the time.

Q. Then one of the considerations of that agreement was that the rates of freight on all oil shipped by the Standard Oil Company were to be made between the president of the road and the Standard Oil Company. That is your understanding of that, is it?—A. I should say that the freight arrangements were made between the

Standard Oil Company and the presidents or freight agents of the roads, whoever had that department in charge, Mr. Kellogg.

Q. Did not these agreements give your company the right to operate these oil terminals of the Erie road and to make charges to independent shippers for putting their oil through the oil terminal?—A. The legitimate charges of the handling of oil were allowed to the warehousemen.

Q. And your company named what those legitimate charges should be?

Mr. MILBURN. I think if you will refer to the contract that they are fixed by the railroad company.

Mr. KELLOGG. No, they are not.

Mr. MILBURN. Now let us see.

Mr. KELLOGG. Not at all.

Mr. MILBURN. Now just let us make it clear.

12553 Mr. KELLOGG. The contract, page 210, Mr. Milburn, provides "To make the charges uniform to all parties who use the yards or for whom services are performed therein, and always as low as any other oil yard affording proper facilities for the transfer, storage, preparation, and shipment of the oil at the terminus of any railway."

Mr. ROSENTHAL. But there is a broader reservation there, giving the railroad officials authority and control over the matter of rates, somewhere in that contract.

Mr. KELLOGG. Not of the terminal rates.

Mr. ROSENTHAL. Yes, sir. You are mistaken about that.

Q. Did you not under that agreement fix the prices which you would charge the independent shipper for the receipt of his oil through those oil terminals?—A. I do not remember personally about that. I notice from your reading, Mr. Kellogg, that those charges were to be—what?

Q. Uniform with the charges and no higher than the charges of other terminals.—A. I should judge from that, Mr. Kellogg, that the spirit of that was that there was a fair arrangement for this warehousing business?

Q. Yes; but if you controlled the terminals of all the other railroads, the agreement to make the uniform charges would not do the independent any good, would it?—A. I think that we would not be so unwise as to make charges that were not regarded fair and reasonable at the time, Mr. Kellogg, for the warehousing of the oil.

Q. But this was not alone for warehousing, but it was for the receipt of oils in the terminals, for the delivery, was it not?—

12554 A. If there were services rendered there, Mr. Kellogg, I suppose that a proper recognition for that part of the service would be right and fair.

Q. Were there any other oil yards in the terminals of these three railroads except those you had a lease of, where oil could be delivered at all?—A. I think there were other oil terminals at the seaboard than those that we had.

Q. Where were they?—A. I was not familiar with the general terminal business, Mr. Kellogg. I have no doubt that there were other terminals.

Q. Each railroad company had an oil terminal, hadn't it?—A. I judge from what you have read that we provided the terminal at the time at Hunter's Point and at some other place, so far as the New York Central was concerned.

Q. Yes, but so far as the Erie was concerned, you rented the Erie's terminals, didn't you?—A. For a short period we had that old dock, until as I say we——

Q. Was it a short period?—A. Just what period I could not say.

Q. How many years did it extend over?—A. I could not say, Mr. Kellogg.

Q. Did not the agreement in section 8 also give your company the right to collect freight charges on all oil that was delivered for the railroad company, not only on your oil, but the other companies'?—A. I suppose that has reference to a custom that the warehouseman, before allowing the goods to go out of his possession, would see to it that the transportation charge, as well as any other charge, was paid.

12555 Q. So you would know therefore not only all about the shipments of your competitors, but what rate was paid by those competitors, and would collect the charge?—A. If we collected the charge, of course we could know.

Q. Now, did you get control of the National Storage Company, which had the oil terminal of the Pennsylvania Railroad, about 1881?—A. I could not say from my recollection, Mr. Kellogg.

Q. Did you control those terminals for many years thereafter?—A. I could not say when we got possession of those terminals, nor can I from my recollection say how long we retained possession.

Q. Now, referring to this Erie agreement, a little further on page 209, it provides that the Erie Railroad Company "for itself hereby stipulates and agrees to and with the second party"—that is, the Standard Oil Company—"that on or before the first day of May, A. D. 1874, it will give full and complete possession of the property known as the Weehawken oil yards, in New Jersey, together with all buildings, erections, docks, and appurtenances thereunto belonging, unto the second party." Now, is it your recollection that you did thereby obtain possession of all the yards and terminals of the Erie Railroad where oil was delivered?—A. That warehouse was their convenient terminal there, Mr. Kellogg.

Q. But that did not include the warehouse alone, but it was the yards connected with it?—A. Well, that part that I supposed was applied for the special oil-storage business.

12556 Q. Were there any other yards connected with the Erie Railroad where they received and delivered oil of independent shippers?—A. I could not recall——

Q. You don't know of any?—A. In regard to their warehousing facilities. I remember about the old Weehawken dock.

Q. So that the independent shipper was compelled, was he not, to use your terminals and patronize your company for the delivery of his oil to New York?—A. I could not say that he was, Mr. Kellogg. I do not recall that he was confined to this warehouse which we had of the Erie road.

Q. Do you know of any other warehouse or terminals that they had?—A. I have no doubt at all, Mr. Kellogg, that there were other facilities which the other shippers had. Just where they were and what they were I could not now recall from my recollection.

Q. Do you know of any such?—A. I could not recall about it.

Q. Did they not deliver their oil, what they shipped, through your terminals in Weehawken?—A. Did not who deliver it through—

Q. The independent shippers.—A. Probably they may have done so to some extent.

Q. And did you not assess a charge against them for doing it?—A. If that was the agreement.

Q. And did you not collect their freight rates that they paid?—A. I do not recall that collection, but——

Q. Taking up this question that you testified to yesterday, of the Cleveland refineries, as I recollect you said you purchased, during the latter part of 1871, 1872, and 1873, and mostly, I think, in the spring of 1872, about a dozen of the refineries in Cleveland?—A.
12557 That we purchased a dozen at that particular time I could not say. Did I say a dozen?

Q. That is as I recollect it.—A. We purchased a number beginning in the last part of the year 1871, the consummation of negotiations and offers to us during the last part of the year.

Q. Do you recollect any one that you purchased in the latter part of 1871?—A. I do.

Q. What one?—A. I remember that we purchased, consummated the negotiation—I did, personally, Mr. Kellogg—with Col. Oliver H. Payne for the Clark, Payne & Company Works.

Q. The latter part?—A. In the latter part of 1871.

Q. When did you purchase the Alexander Scofield refinery?—A. My impression would be, Mr. Kellogg, that at or about the same time the negotiation was concluded.

Q. Was that not purchased in the spring of 1872?—A. The precise date of it I can not now mention, Mr. Kellogg. These negotiations came right along in together, and there were a number of offers which were satisfactory, offers of properties which were satisfactory, in the last part of this year 1871, just which ones I don't recall now.

Q. Can you name any one except the one of Oliver H. Payne, which was purchased in 1871?—A. I could not state specifically the date of any of these purchases. That would not be lodged in my mind.

Q. Were some of these refineries dismantled?—A. Presumably, Mr. Kellogg, as the time went by.

Q. Were not many of them dismantled at once?—A. I think not, Mr. Kellogg.

12558 Q. Within a very short time?—A. I think not, Mr. Kellogg.

Q. At the end of 1873 how many were you operating at Cleveland?—A. I could not tell you, Mr. Kellogg.

Q. You were not operating all of them, were you?—A. All of the refineries in Cleveland?

Q. Which you bought during 1871, '2 and '3?—A. I could not state that. You will remember that we had an excess of refining capacity at that time, that would——

Q. If you had an excess of refining——

Mr. ROSENTHAL. Let him finish his answer.

Q. I beg your pardon. Did you finish your answer?—A. What was the other question?

Q. If you had an excess of refining properties, why were you buying more?—A. We were utilizing the best of these.

Q. And dismantling the others?—A. This process of bringing together for the economies of manufacture was not a process of a day. It was a process that was steadily going on, connecting these different refineries with pipes, and otherwise arranging so that we could get the most economical capacity with the closest supervision.

Q. Had you not, prior to 1874, bought at least 20 of the refineries which had been in operation by the independent operators?—A. I should not think as many as that, Mr. Kellogg, but I could not state to you with definiteness.

Q. Were there any independent refineries left in Cleveland in 1874, '5 or '6?—A. Oh, yes.

Q. Whose refinery?—A. I do not recall. There were always independent refiners there as those years went by.

Q. Can you name one that was in operation in 1875?—
12559 A. I do not know that I could remember, from my present recollection, just those who were left out at Cleveland.

(Recess of five minutes.)

Q. I believe, Mr. Rockefeller, in answer to Mr. Milburn's questions, you said that you did not organize the South Improvement Company?—A. I do not remember just exactly how that answer was put.

Q. Did you have anything to do with the organization of that company?—A. We had very little to say about that company.

Q. Did you have anything at all to do with the organization of it?—A. We participated in the meeting of the organization, I suppose.

Q. That was organized prior to January, 1872, was it not?—A. I do not recall the date of that organization.

Q. It was organized before you purchased any of the refineries in Cleveland?—A. My recollection would be that it would be along——

Mr. ROSENTHAL. Did you get the last question? May we have that repeated?

(The official reporter read the question as follows: "Q. It was organized before you purchased any of the refineries in Cleveland?")

A. I think not.

Q. You think not. It was certainly organized prior to the time that it entered into the contract with the Pennsylvania Railroad, wasn't it?—A. The South Improvement Company?

Q. Yes, sir.—A. Presumably so.

12560 Q. I notice that contract was dated January 18, 1872. It was presumably organized then some time in 1871, wasn't it?—A. I could not tell you, Mr. Kellogg. I could not tell you the date of the organization. My recollection would have been that it was some time along after the beginning of the year 1872.

Q. But the contract between the South Improvement Company and the Pennsylvania Railroad was made January 18, 1882, and the South Improvement Company was organized before it entered into that contract, wasn't it?—A. Presumably so.

Q. Now that elaborate contract was not entered into with these railroad companies in a single day. It was a matter of long negotiation, wasn't it?—A. I could not state in respect to that, Mr. Kellogg.

Q. I notice that you and William Rockefeller, H. M. Flagler, and O. H. Payne each subscribed for 180 shares. Is that your recollection?—A. My recollection is that Mr. William Rockefeller and Mr. Flagler and I each subscribed, probably Col. Payne may also have subscribed, for 180 shares.

Q. Was not all of the stock in the organization taken by you or the other parties who were shortly after that interested with you in acquiring these various properties?—A. No, sir.

Q. Mr. William Frew, Mr. W. P. Logan, Mr. John P. Logan, Mr. Charles Lockhart, Mr. Robert S. Waring were all interested with you shortly after that, were they not?—A. No, sir.

Q. Which one was not?—A. Mr. Logan; I do not recall that Mr. Logan was in with us at all. It would be my recollection that Mr. Waring was not with us at all.

12561 Q. Well, they only had 10 shares apiece. Mr. W. G. Warden had 475 shares. Was he interested with you shortly afterwards?—A. No, sir.

Q. W. G. Warden—didn't he become a stockholder of the Standard Oil Company?—A. Not very soon thereafter.

Q. How long thereafter?—A. I should think about three years thereafter.

Q. There were only 2,000 shares issued in the original organization, were there?

Mr. MILBURN. There were not any issued.

Q. Or subscribed?—A. I would not know, from my recollection, what the capital stock was.

Q. You do not recollect?—A. I would not know from my recollection.

Q. You stated that you did not share the views of the others as to the plan, and you frankly stated so to them?—A. I did.

Q. But you assented, not having confidence, I think you said?—A. I did.

Q. The Standard interests were in the minority, I think you said?—A. I think I did.

Q. I believe you said that shortly after this contract became public there was great excitement in the oil regions. Is that correct?—A. Yes, sir.

Q. Public meetings were held denouncing it, were they not?—A. I think there were.

Q. Meetings at Oil City and Pittsburg?—A. I could not speak of the particular locations of these meetings.

Q. They were attended by oil producers and independent oil refiners, were they not?—A. I should say so.

12562 Q. They sent a committee to the legislature of Pennsylvania, did they not, to get the charter repealed?—A. I do not recall particularly that. It may have been from this—it may have been so.

Q. Did they also not send a committee to Congress and a congressional committee make an inquiry into it?—A. I could not say that it was these people; I could not say that these people did.

Q. Some committee did go to Congress, did it not?—A. I think I have some recollection of that.

Q. Some committee did go to the legislature, did it not?—A. I do not recall about that. Do you refer to the legislature of Pennsylvania?

Q. Yes, sir.—A. I do not recall about that.

Q. What was it excited the producers and refiners of the oil region about this contract?—A. I could hardly explain the reasons for the excitement of these gentlemen. I could hardly explain that, Mr. Kellogg.

Q. Did you not know from the public meetings and the press at that time, what it was?—A. Probably I did at that time, Mr. Kellogg.

Q. Was it not the enormous rebates that the railroads had agreed to pay in this agreement, connected with an agreement that the railroads would charge the outside shippers the full rates?—A. I should say it was a misapprehension in regard to that affair.

Q. In what respect?—A. An impression I should say was created that it was something that was going to be harmful to them some way.

12563 Q. It did provide a schedule of rates to be charged by the railroads on both crude and refined oil to the seaboard points, did it not?—A. Very likely it did.

Q. Is not that your recollection?—A. I could not speak particularly in respect to that contract. It was a matter that did not remain long in my possession as a thing of any importance at all one way or the other.

Q. Did it not name rates varying from 80 cents to $2 per barrel?—A. I could not state that, Mr. Kellogg.

Q. Please look at pages 202 and 203; I mean rates varying from $1.85 to $3 per barrel?—A. May I trouble you for the number of the page?

Q. Pages 202 and 203. Look at page 201, and I will change the question. Did it not provide for a rate on crude petroleum of 80 cents to Pittsburg and Cleveland, and of from $2.41 to $2.71 to New York, Philadelphia, Baltimore, and Boston?—A. It appears so here, Mr. Kellogg.

Q. Is not that your recollection?—A. I have no recollection about what the rates were.

Q. Did it not on page 202 provide for a rebate of one-half of the rate to Cleveland, and $1.06 to New York (bottom of page 202)?—A. A refund of what had been paid by the refiner who drew the crude to Cleveland, in connection with making his rate on the barrel of refined oil to New York, to put the different refining points upon a parity.

12564 Q. Well, let us see about that. It did actually provide that the rates from the oil regions to Cleveland should be 80 cents, did it not (page 201)?

Mr. ROSENTHAL. On crude?

Q. Page 201, on crude oil?—A. Yes, sir.

Q. And on page 202 provided for a rebate of 40 cents, did it not?—A. That appears here on page 202.

Q. That is correct, is it?—A. It seems to be here, sir.

Q. And the rate to New York on crude (page 201) was $2.56, and to Philadelphia $2.41, and to Baltimore $2.41, was it?—A. It seems to be the rate to New York here on page 201.

Q. And the rebate was $1.06?—A. $1.06 on the rebate of——

Q. In the schedules——A. Allow me. What is the question.

Q. The question is if the rebate from the rate on crude petroleum was $1.06.

Mr. ROSENTHAL. From where?

Q. From the oil region to New York, Philadelphia, and Baltimore.—A. I see the $1.06 on page 202.

12565 Q. Is not that a rebate from the gross rate?

(Witness reads to himself from the document.)

A. That seems to be the rebate.

Q. Now, referring to refined oil on page 203, it provided for a rebate from the oil regions to the various places of from 50 cents to $1.32 a barrel, did it not?—A. I see here the 50-cent rate. I do not know from recollection how this calculation came in in respect to those refineries which drew the crude away from the regions.

Q. There is nothing in the agreement, as I recall, about that. That was the pool agreement that you testified to yesterday?—A. Yes.

Q. This is a straight agreement for a rebate on the refined oil, isn't it?—A. I do not recall that. My query was whether this was

actual or whether in connection with that same sort of governing idea of allowing the men who had to carry his crude oil to manufacture back to Cleveland or to Pittsburg; that is my point.

Q. Well, there is nothing in this agreement about it. You generally recollect that agreement, do you not?—A. I remember that there was an agreement.

Q. Did it not also have this clause: "To charge all other parties excepting such as are referred to in article 3 for the transportation of petroleum and its products rates which shall not be less than the gross rates above specified?" Is that your recollection?—A. My recollection is that all parties were expected to be in it.

12566 Q. Oh, yes; but it did provide, did it not, to charge to other parties the full rate, that is your recollection?—A. That is, the railroad was to charge——

Q. Yes, sir; to the parties not in this agreement, the full rate?—A. Very likely so.

Q. Is not that your recollection of it?—A. I could not have told from my own recollection about it.

Q. Well, the agreement was to pay those rebates to the South Improvement Company, was it not?—A. Probably so.

Q. And the agreement was also to charge other parties not in this agreement the full rate, wasn't it?—A. The agreement would show for itself.

Q. Is not that your recollection of what it was?—A. I could not have said from my recollection. The thing went out of existence, and was of no account anyway, one way or the other. There was never a barrel of oil hauled under it.

Q. We will see about that. Now, isn't it that feature that created the intense excitement among the producers and refiners in the oil regions?—A. That may have been one of the things.

Q. Do you know of anything else?—A. I could not remember forty years all the little circumstances and influences that might have wrought upon the minds of these gentlemen in regard to this question.

Q. You say the Standard Oil people did not share the views of the others that this could be made successful?—A. I did.

Q. Did not the Standard Oil Company, after these indignation meetings, join in the publication of a manifesto to the pro-

12567 ducers and refiners in the oil regions, justifying the terms of the South Improvement agreement?—A. I do not recall that it did.

Q. Do you recall a publication headed "The Other Side. What the South Improvement Company Propose to Do. Official Manifesto of the Aims and Objects of the Association—The Company Pledged Not to Speculate and Organized for the Best Interests of the Trade, etc."?—A. I should rather say that——

Q. Wait a moment. Signed by Warden, Frew & Co., Waring, King & Co., Logan Bros. & Co., Standard Oil Company, and J. A. Bostwick & Co., and published in the newspapers generally in the spring of 1872, after or about March, 1872?—A. There might have

been such a publication. I would not say that there was not. Presumably.

Q. Would you like to look at it [handing witness book]?

Mr. ROSENTHAL. Presumably what? Finish your answer.

A. Where do I find the signatures?

Q. Over two or three pages. I will show you.—A. Don't trouble, sir; I will find them; don't trouble, sir.

Q. No trouble at all, I assure you.—A. Thank you. On page 2624 of this book I find the signatures of Warden, Frew & Co., Waring, King & Co., Logan Bros. & Co., Standard Oil Company.

Q. Yes, sir.—A. Well, I rather think that that was signed by their old Standard Oil Company of Pittsburg.

A. Those Pennsylvania gentlemen were specially interested here in this affair. They were the enthusiastic supporters of it. I rather think that that must have been the Standard Oil Company.

Q. Of Pittsburg?—A. Of Pittsburg. Though I can not
12568 positively state that. I have no recollection of the Standard Oil Company of Cleveland signing it.

Q. Have you investigated the subject lately?—A. My attention was called to that.

Q. Well, at that time you and Mr. Flagler and Mr. William Rockefeller were stockholders in the South Improvement Company evidently?—A. I could not say that we were at that time.

Q. When did you give up the stock which you had previously subscribed for?—A. That I could not state from recollection.

Mr. ROSENTHAL. It does not apper that he ever got it yet.

WITNESS. I should say that I never had it.

Q. You mean that the certificates were not actually issued?—A. I have no recollection of their being issued.

Q. Do you remember this publication?—A. It had passed out of my recollection altogether until my attention was called to it.

Q. When was your attention called to it?—A. Just now; within this last day or two.

Q. Within the last day or two?—A. Just now; recently.

Q. Why do you think that the Standard Oil Company of Pittsburg was the signer of this manifesto?—A. I could not state that it was the Standard Oil Company of Pittsburg, but inasmuch as these Philadelphia gentlemen were the enthusiastic supporters of this South Improvement Company, the leaders in it, in common with Mr. Scott, and inasmuch as they lived right there in the regions, it is natural to suppose—that it was the Standard Oil Company of Pittsburg I do not state positively, but it would be my impression
12569 that it would be altogether likely, as I see the signatures also of the other Pittsburg gentlemen.

Q. Do you know that in March, 1872, there was a Standard Oil of Pittsburg?

Mr. MILBURN. It was organized in 1868.

Mr. ROSENTHAL. It was organized as early as 1868.

A. I do know, yes, sir, that for a number of years there existed the old Standard Company of Pittsburg, a part of the old Lockhart & Frew, and possibly some English gentlemen with them.

Q. It was not doing business in 1872, was it?—A. I understood that it was a living concern in 1872 and for a number of years previous.

Q. You can not say that the Standard Oil Company of Ohio did not sign this, can you?—A. I can not remember about that. I only state what seems to me to be the strong presumption, because these other gentlemen at Pittsburg did sign.

Q. Did you discusss this subject with those gentlemen?—A. I have no recollection of ever discussing it with them.

Q. Would it be natural that a company like yours, whose stockholders were largely interested in the South Improvement Company, would join in that manifesto?—A. I think it would be altogether likely that Mr. Warden, who was so actively identified with the affair, who had such varied and many interests through the regions, in connection with his local friends there, would have issued just such a circular.

Q. Why do you say this agreement was misunderstood in the oil regions?—A. I assume that it could not have been correctly
12570 understood by everybody.

Q. What understanding did you have of the agreement?—A. I should say generally that that agreement, carried into effect, embracing the interests, could have been a help to producing, to refining, to railroading; at all events, that was the theory of the ardent promoters of the thought.

Q. The theory that the refineries or refiners which should come into this agreement would get the benefit of the stipulations as to rebates?—A. The happy thought of Mr. Warden was that all of these gentlemen could come into an arrangement of this kind, the producer could get a good price, the transporter could get a good price, the refiner could have a return for his service, and that it would be of benefit generally.

Q. It would be of benefit then to the refiner who became a party and came into the organization?—A. And the doors were open.

Q. And the doors were open?—A. As I understood the theory of that.

Q. But what would become of the refiner who did not care to consolidate his properties into this agreement?

Mr. ROSENTHAL. The agreement did not contemplate the consolidation of properties.

A. I could not state about that.

Q. He could not possibly do business in competition with these refiners, with a rebate against him of that amount, could he?—A. He could come in.

Q. Suppose he could not come in?—A. Well, the doors
12571 were open for him to come in.

Q. How do you know the doors were open for him to come in?—A. Because that was the theory of the gentlemen who organized it and tried to carry our confidence and support of it, that it would be generally beneficial in its character and would be a popular measure.

Q. Did you intend to take into the South Improvement Company all of the refiners in the district?—A. I think that all of the refiners were expected to come into it.

Q. What publication or communication did you make to these refiners that they were all expected to come into it?—A. I could not say about publications in respect to that question. I presume it would not come in that way. It would be a matter of personal business with each man.

Q. Did you advertise——A. That is, we would not be advertising to the public matter that did not pertain to the public but pertained to individuals in their business.

Q. There were at that time a large number of independent refiners throughout the oil regions, were there not?—A. I should say quite a number.

Q. How many; 50 or 60 of them?—A. I was not so conversant with the oil region refinery situation.

Q. Were there a hundred or more?—A. I should think not nearly such a number, but I have no definite——

Q. Well, were there in western Pennsylvania, Ohio, Erie, Pennsylvania, and all the other places, a large number of
12572 independent refiners at that time?—A. Oh, there were many of these little refiners in the regions and about.

Q. What communications were made to these independent refiners that they would be expected to come in and have the advantages of that contract?—A. I have no recollection with respect to that matter.

Q. You do not know that they were notified that they could come in, do you?—A. I do not remember anything about that.

Q. Then, it was not advertised, you say, that they could come in?—A. I do not remember seeing any advertisements in the papers about that.

Q. Was not the contract for some time kept secret?—A. I could not remember; it may have been so.

Q. Who was invited to come into the company?—A. That I could not say. The change and the abandonment of the scheme so quickly followed the conception, I could not say.

Q. Did you go to any of the refiners at Cleveland and offer to take them into this arrangement?—A. Never.

Q. Did anyone offer to take the independent refiners in Cleveland in?—A. I do not recall what others did.

Q. Col. Payne, yourself, Mr. William Rockefeller, and Mr. Flagler were the only stockholders in the South Improvement Company who lived in Cleveland, were they not?—A. Mr. William Rockefeller did not live in Cleveland.

Q. Then excluding William Rockefeller, you and Mr. Payne and Mr. Flagler lived in Cleveland?—A. Col. Payne, Mr. Flagler, and I resided in Cleveland at that time.

12573 Q. Were there any other of the stockholders of the South Improvement Company living there?—A. Not that I recall.

Q. Did any of these men—Col. Payne, yourself, or William Rockefeller—offer to take the twelve or fifteen independent refiners in Cleveland into this agreement?—A. I do not recall that we did.

Q. Did you inform them of this agreement, and that they would have an opportunity to participate in it, when you bought them out?—A. I do not recall that we did.

Q. You knew when you bought out some of them that you would have the advantages of this agreement, did you not?—A. That would depend upon the dates at which I made such purchases.

Q. The agreement was entered into January 18, 1872. Those whom you bought out after that in the next few months, at that time you knew you would have the advantages of it, did you not?—A. As a matter of fact, as I have already stated, I did not believe in this thing.

Q. Well, whether you believed in it or not, you knew if it was carried out you and your refiners would have the benefit of it, did you?—A. I think, as I have previously stated, all refiners could have the benefit of it.

Q. Now, how did the independent refiners at Cleveland, whose refineries you bought in the winter of 1872, know that they could have the benefit of this contract?—A. That I can not state from recollection.

Q. Did the subject come up in any of the negotiations in purchasing them?—A. Not that I know of.

12574 Q. Do you know that until after the repeal of the charter, until after this public excitement, no manifesto or statement was published or made public that generally the refiners would be taken in?—A. I could not state from recollection about the publications of the times.

Q. You have no recollection?—A. There were many publications from day to day on this whole question. What they were I could not remember. By this whole question, I mean this agitation.

Q. Were those meetings in the oil regions held along the latter part of February, say the 26th and 27th, 1872?—A. I could not state when those meetings were held in the oil regions.

Q. Shortly after or about the time of the execution of this South Improvement agreement, were the freight rates advanced by the railroads?—A. I do not recall about that. I do not recall about the freight rates at that time.

Q. At the time you purchased these refineries in Cleveland, were you paying the full tariff rates?—A. Nor could I tell what rates we were paying at this time.

Q. You testified yesterday at considerable length in relation to a pool agreement between the various railroads, the Erie, the Pennsylvania, the Lake Shore, and others, dividing up the traffic and fixing rates, the agreement of 1874, Exhibit 6 (to the bill), did you not?

Mr. MILBURN. What page?

Mr. KELLOGG. Page 220, 221, 222 and so on.

Mr. MILBURN. Can you see there?

WITNESS. I think I can.

12575 Mr. MILBURN. I think that is the agreement we had up the last thing last night.

Mr. ROSENTHAL. The October, 1874, agreement.

Mr. KELLOGG. Yes.

Mr. ROCKEFELLER. What is the date in 1874?

Mr. ROSENTHAL. The pipe pool agreement.

Mr. KELLOGG. The pool agreement known as the pipe pool agreement.

Q. Mr. Milburn asked you in relation to that agreement between the railroads, dividing up the traffic between the lines carrying oil, did he not?—A. I think so.

Q. And he read to you a clause which I desire to call your attention to again: "The roads transporting the refined oil shall refund to the refiners as a drawback, the charges paid by them upon the crude oil reaching their refineries by rail." Your refineries at Cleveland, then, under that, would get back the rate they paid for transporting the crude oil to Cleveland?

Mr. ROSENTHAL. On the refined sent to the seaboard.

Mr. KELLOGG. On refined sent to the seaboard, that is right.

A. I should think that was the correct interpretation.

Q. And the rate from Cleveland to the seaboard on refined oil was the same as the rate from Pennsylvania points to the seaboard, was it not?

Mr. ROSENTHAL. Cleveland, Pittsburg, and the oil regions were on a parity.

A. I should think depending upon whether the seaboard point you have in mind was New York or Philadelphia or Baltimore.

12576 Mr. ROSENTHAL. It does not make any difference.

Mr. MILBURN. Yes, he is right.

Mr. ROSENTHAL. No; it does not make any difference.

Q. The rates from Cleveland to New York, Philadelphia, Baltimore, and Boston on refined oil were the same as the rates from Pennsylvania points to New York, Philadelphia, Baltimore, and Boston?—A. I would say Pittsburg and Cleveland would represent the same class of points from which the freight arrangement——

Q. Well, it also provides Pittsburg or the oil regions?—A. Yes.

Q. So that Pittsburg and the oil regions in Pennsylvania took a common rate with Cleveland to the seaboard?—A. This was the contract where they were supposed to be put, as I understand it, upon a parity.

Q. That is right. So Cleveland was put on a parity with the refineries in Pittsburg and the oil regions on shipments to the seaboard, was it not?—A. I should say so.

Q. That is what I was trying to get at. And it provides, "And the road transporting through crude oil to the eastern seaboard shall refund to the shippers twenty-two cents per barrel; both of said drawbacks to be paid only on oil reaching the initial points of rail shipment through pipes, the owners of which maintain agreed rates of pipeage." In other words, those rebates, both on the refined and the crude, were paid only to those refineries or pipe lines which maintained agreed rates of pipeage; isn't that true?

Mr. ROSENTHAL. No; there is no connection between the refinery——

12577 A. We were refiners. I can think of it from my standpoint. I can understand that part perhaps.

Q. "And the road transporting through crude oil to the eastern seaboard shall refund to the shippers twenty-two cents per barrel"—to the shippers?—A. That referred to the refined-oil shipments from the region——

Mr. ROSENTHAL. No; crude.

WITNESS. The crude.

Mr. ROSENTHAL. The crude through the pipes.

WITNESS. In that clause we have——

Mr. ROSENTHAL. Just below that table of rates, Mr. Rockefeller.

WITNESS. "Upon crude from initial points of rail shipments to New York—crude oil—$1.65." Yes, sir. I find it here.

Q. "Both of said drawbacks to be paid only on oil reaching the initial points of rail shipment through pipes, the owners of which maintain agreed rates of pipeage." Now, what pipe lines maintained agreed rates of pipeage?—A. I suppose they were the pipe lines which were included in this general scheme of transportation. I suppose just that, that it referred to pipe lines that were included in this——

Q. Now, the American Transfer Company was included, wasn't it?—A. If it is here in the contract.

Q. I show you——A. I can find it here, if you will, kindly.

Q. I show you another agreement, entered into September 4, 1874, this agreement being October 1, 1874, between various pipe

12578 line companies [handing witness volume of petitioner's exhibits.] Petitioner's Exhibit 770, at page 1817.—A. Thank you.

Q. Was that the pool agreement between the pipe-line companies?—A. I have not read this, as I recall. From recollection I do not remember their pooling agreement, that is, the pooling agreement, if one, between the pipe lines.

Q. The first contract, Exhibit 6 (to the bill), provides, "and that they"—referring to the pipe lines—"shall be set forth in a contract to be entered into between each pipe line and the trunk lines parties

hereto; such agreed rates of pipage being of importance to the parties hereto and constituting a valuable consideration to them. Oil reaching refineries by pipes direct shall not be entitled to the drawbacks on refined oil." So that any refinery which received its oil in the Pennsylvania district direct from a pipe line could not get the rebate, could it?—A. Well, I judge not from what you have read.

Mr. MILBURN. But that was a rebate through to the seaboard.

WITNESS. Neither did it pay any freight to transport the oil, as, for example, to Cleveland or Pittsburg, on the crude oil, to make the barrel of refined oil which in turn was transported back for export to New York, under this arrangement.

Q. And it was only refineries receiving their oil through pipe lines which maintained agreed rates of pipage under that agreement who could get the rebate, wasn't it?

Mr. ROSENTHAL. Could get the pipe rebate?

Mr. KELLOGG. The pipe rebate, or either one of them, for that matter.

12579 A. The refiner who had already paid out his freight, as I understand this, was reimbursed. If he had not paid out any money for freight to his refinery he was on a parity. That has been my understanding of this, that it was putting them all on a parity.

Q. But it provides that unless, "both of said drawbacks to be paid only on oil reaching the initial points of rail shipment through pipes, the owners of which maintain agreed rates of pipage." So unless the party received his oil through a pipe line which signed that pool agreement to maintain pipage charges, he could not get any rebate at all? Isn't that right?—A. Any refiners who paid anything at all to get the freight to the refinery were reimbursed, as I understand this.

Q. Not unless they received their oil at the point of shipment, through pipes which maintained the agreed rate of pipage?—A. That feature, as I understand it, of the maintained agreement of pipage was something as among the men piping the oil among themselves, to accomplish what the railroads accomplished in their arrangement about the freight.

Q. Yes.—A. I should say so.

Q. And only those men who maintained those agreed rates of pipage could get the rebate?—A. And thus the protection was given to the shipper over the railroad who might have been discriminated against if one of these pipers had given him a concession. It was to prevent concessions—it was to hold to the idea of keeping all these points on a parity; that is my understanding.

12580 Q. Now, which pipe lines entered into that agreement? You have got it right before you.—A. I could not tell without looking.

Q. The United Pipe Line entered into it, didn't they?

Mr. MILBURN. That is on page 1820. Do you see the signatures there?

WITNESS. I do.

Q. The United Pipe Lines entered into that agreement, didn't they?—A. The first one here.

Q. Yes, sir. The American Transfer also entered into it?—A. I will see. I find the American Transfer.

Q. Those two companies were connected with the Standard Oil Company at that time, were they not?—A. The American Transfer was. We may have had at that time a very small interest in this Vandergrift pipe.

Q. You had a third interest, hadn't you?—A. I do not recall the amount. It was a small fractional interest, my recollection would be.

Q. What other pipe lines there were you interested in?—A. I do not recall.

Mr. MILBURN. Just look at them and see.

WITNESS. Yes, I will look.

Mr. MILBURN. Look at the others and see if you had any interest in any of them.

WITNESS. I will look [after looking over the list]. We had no interest in any of the others.

Q. The Union Pipe Line was connected with the Empire
12581 Transportation Company, the Pennsylvania road, that you have heretofore spoken of, wasn't it?—A. I should say there was a Union pipe line, but I could not surely say that.

Mr. MILBURN. I did not catch that last question.

(The last question and answer were read by the reporter.)

WITNESS. I should like to change that and say that I do not recall definitely respecting the Union Pipe Line.

Q. Mr. Rockefeller, you testified yesterday as to the stockholders of the Standard Oil Company from 1874 or 1875 down to 1879 obtaining interests in the stocks of various other refining companies in Pennsylvania and at the seaboard.

Mr. ROSENTHAL. 1872 to 1879, Mr. Kellogg.

Mr. KELLOGG. Well, 1872 to 1879.

A. I did.

Q. Among others, you testified to the Charles Pratt & Company in Brooklyn?—A. I did.

Q. As I understand, you say this was acquired in the latter part of 1874.—A. I think I am correct about the date.

Q. It was a corporation, wasn't it?—A. I believe it was.

Q. Having stock. And the stockholders, at least two of them, were Charles Pratt and H. H. Rogers; is that correct?—A. I think so.

Q. It was doing a refining business—this company, and an export business in Brooklyn, New York, was it not?—A. It was my understanding.

Q. And did Mr. Rogers and Mr. Pratt at that time sell to you their stock, or did they become stockholders in the Standard Oil

Company?—A. We bought all their property; we bought
12582 their concern, their going concern.

Q. You did not take a deed of the physical property to the Standard Oil Company?—A. Their properties presumably were owned, represented by the stock of Charles Pratt & Company.

Q. That is right. You did not take a deed of those properties, did you?—A. I could not say about the legal papers, how they were made; I do not recall that; it was not in my particular department of work.

Q. Is it a fact that you and your stockholders became interested with Mr. Rogers and Mr. Pratt in the stock of that company?—A. We bought the entire concern.

Q. Who bought the entire concern? You say "we."—A. It was bought with the funds of the shareholders of the Standard Oil Company, or by the capital shares—by the shares of the Standard Oil Company of Ohio.

Q. You stated yesterday, as I understood you, that you meant by "we," when you were telling about "we bought these properties," the shareholders of the Standard Oil Company?—A. Yes.

Q. That is, the stock of the Charles Pratt & Company was bought by the shareholders of the Standard Oil Company of Ohio?—A. In the case of the Charles Pratt & Company the stock of the Standard Oil Company was used instead of money, I believe.

Q. That is, you exchanged stock of the Standard Oil Company for stock of Charles Pratt & Company, did you?—A. We became possessed of all that Charles Pratt & Company had. The question of the deeds of the physical property of that—the legal transfers of that—I could not so particularly state. We became possessed of all that business.

12583 Q. Now, let us see about that. Do you mean that Mr. Charles Pratt and Mr. Rogers retired from business entirely?—A. No.

Q. What did they retain?—A. They did not retain any of the shares which they had owned in the Charles Pratt & Company.

Q. What did they get?—A. They got the stock of the Standard Oil Company.

Q. And became stockholders in the Standard Oil Company?—A. Eventually.

Mr. MILBURN. Not to mislead him, but did they get it or did the corporation get it?

Mr. ROSENTHAL. The corporation—Charles Pratt & Company—got it.

Mr. MILBURN. Got the consideration.

Q. Did Charles Pratt and Mr. H. H. Rogers continue to operate the Pratt & Company plant?—A. I think that they did.

Q. For five years did they not continue to operate that plant—known to the world as the owners of it?—A. I should say not.

Q. Did you advertise that you had bought it?—A. I do not recall about the advertising.

Q. Did not they stay in possession of it?—A. They conducted the business, being the most experienced and best persons, according to the judgment of——

Q. Did they work on a salary for the Standard Oil Company?—A. They received, I presume, salaried considerations for their services.

Q. Is that all they received between that time and the time
12584 in 1879—their salary?—A. Whatever they did receive came to them from the shares, if they were possessed thereof, of the Standard Oil Company of Ohio.

Mr. ROSENTHAL. And their salaries.

WITNESS. And their salaries as well.

Mr. KELLOGG. That is what I asked you.

Q. Is it true that the corporation of Charles Pratt & Company received the shares of stock of the Standard Oil Company and that the Standard Oil Company received the shares of stock of Charles Pratt & Company?—A. It is true that the entire stock of the Charles Pratt & Company passed out of the possession of the old owners.

Q. Now, who were the old owners?—A. I suppose they were Charles Pratt and Henry Rogers, and I found last night—I think I testified yesterday that they were the only owners, as I read that trust agreement. I think there was another name.

Q. Who was it?—A. A brother, perhaps, of Mr. Charles Pratt.

Mr. MILBURN. Horace Pratt?

WITNESS. I can not state that. It was a Mr. Pratt.

Q. Charles Pratt and H. H. Rogers and possibly Mr. Pratt's brother?—A. I would think so.

Q. Then, is it not true that their stock in the Charles Pratt & Company went to the Standard Oil Company, and that the Standard Oil stock went to the Charles Pratt & Company?—A. Not to the Charles Pratt & Company.

Q. To whom did it go?

Mr. ROSENTHAL. The individuals.

12585 A. It went to Mr. Charles Pratt, it went to Mr. Henry H. Rogers, and it went to Mr. Pratt's brother, as I recall it.

Q. And they received stock in the Standard Oil Company, did they?

Mr. ROSENTHAL. That is what he just said.

A. They did. That is what it came to.

Q. How much stock?—A. I do not recall the precise amount of the stock.

Q. What do you mean by saying that is what it came to?—A. I mean either at that moment or the next minute or after that particular moment. I mean that was all there was to it.

(An adjournment was here taken until the morning of Monday, November 23, 1908, at 10.30 o'clock.)

12586 ROOM 508, CUSTOM-HOUSE, NEW YORK CITY,
Monday, November 23, 1908—10.30 a. m.

The hearing was resumed before the special examiner, Hon. Franklin Ferriss, at the above time and place.

Present: On behalf of the petitioner, Mr. Frank B. Kellogg, Mr. Charles B. Morrison, Mr. J. Harwood Graves. On behalf of the defendants, Mr. John G. Milburn, Mr. Moritz Rosenthal, Mr. John S. Miller, Mr. F. L. Crawford, Mr. Walter F. Taylor, Mr. Douglas Campbell, Mr. W. Cleveland Runyon.

JOHN D. ROCKEFELLER recalled and his cross-examination resumed, as follows:

By Mr. KELLOGG:

Q. Before proceeding with those companies which you purchased, and which I was questioning you about when we adjourned, I would like to take up some of the stockholders you testified about, in the Standard Oil Company in the early days. Is it not a fact that all of the parties who were subscribers for stock in the South Improvement Company were subsequently stockholders in the Standard Oil Company?—A. I think not.

Q. Warden, Frew & Company became stockholders shortly after that, did they not?—A. Not shortly after.

Q. How long after?—A. About three years.

Q. So that included Mr. William Frew, Mr. W. P. Logan,
12587 Mr. John P. Logan, Mr. Charles Lockhart, and Mr. W. G. Warden, did it not?—A. No, sir.

Q. Which one of those parties was not a member of the firm of Warden, Frew & Company?—A. If you will be good enough to call the names again I will see if I can answer.

Q. William Frew was a member, was he not?—A. William Frew was.

Q. He became a stockholder then in the Standard Oil?—A. He did.

Q. Mr. W. P. Logan was a stockholder, was he not?—A. No, sir.

Q. He had 10 shares. Did Mr. John P. Logan?—A. No, sir.

Q. Mr. Charles Lockhart became a stockholder in the Standard Oil, did he not?—A. Years afterward, yes, sir.

Q. How long after?—A. About three years after, I suppose.

Q. Mr. W. G. Warden became a stockholder in the Standard Oil Company, did he not?—A. Some three years afterward.

Q. Mr. P. H. Watson became a stockholder in the Standard Oil Company, did he not?—A. I think his name does not appear there.

Q. His name appears here——A. I think his name does not appear as a stockholder. That record will show who the stockholders were of the Standard Oil Company, I think. All of the stockholders appear there in the paper that I presented.

Q. I am not asking you whether he became a stockholder in 1889. Did not Mr. P. H. Watson, who was a stockholder in the South

Improvement Company, after that time become a stockholder in the Standard Oil?—A. I can not say that he may not
12588 have had stock. Anybody could have stock who had the money to buy it.

Q. Was he not a stockholder in 1875?—A. I can not recall that.

Q. You amended your articles of incorporation in 1875, did you not?—A. I do not remember that.

Q. And increased the stock from $2,500,000 to $3,500,000. Is not that correct?—A. We increased the capital stock about that time from 2½ millions to 3½ millions.

Q. And in doing that, did you not submit and sign a certificate with the names of the stockholders of the Standard Oil, including Mr. P. H. Watson?—A. The paper would be the best evidence; I do not recall.

Q. Do you not recall——A. If there is such a paper.

Q. Do you not recall that Mr. Watson was a stockholder about that time in the Standard Oil Company?—A. It is very likely that Mr. Watson may have been a stockholder for a short time in the Standard Oil Company. I do not say that he was not.

Q. Mr. Flagler and Mr. Payne were both afterwards stockholders in the Standard Oil. Mr. Flagler and Mr. Payne were stockholders in the Standard Oil at the time this South Improvement agreement was made, were they not?—A. Mr. Flagler was.

Q. Was not Mr. O. H. Payne?—A. I think he was.

Q. Was Mr. J. A. Bostwick?—A. I can not say the exact time that Mr. Bostwick took the stock.

Q. He afterwards became a stockholder?—A. He became a stockholder of the Standard Oil Company. The precise date I could not say.

12589 Q. How long after 1872?—A. I have answered that I could not say the precise date when he became a stockholder.

Q. Did either Mr. Robert Waring or Mr. O. F. Waring become a stockholder in the Standard Oil?—A. I do not think that Mr. O. F. Waring did become a stockholder in the Standard Oil Company; I should say not.

Q. Either one of the Warings?—A. The other Waring at some subsequent time, I think, may have become possessed of stock, but whether—yes, at some subsequent time, what time I could not say—that is the gentleman we called Orville Waring?

Q. Orville F. Waring, yes.—A. Richard Waring was the other. I think Richard never became a stockholder.

Q. O. F. Waring did?—A. O. F. Waring at some time became a stockholder.

Q. How long after 1872?—A. That I could not say; that I don't remember.

Q. That makes all the stockholders, except three, who were stockholders in the South Improvement Company afterward, or at that time, stockholders in the Standard Oil?—A. Well, I don't know that.

Q. Well, this is according to the record. Now, how many railroad men did you take in as stockholders along about that time, from 1870 on?—A. I have given the names, I think, of all the stockholders which we had. I think that all appears there.

Q. Was Mr. W. H. Vanderbilt ever a stockholder?—A. I
12590 could not say that he was ever a stockholder. I could not say that he was never a stockholder for some trifling amount.

Q. Was he not a stockholder prior to and including the year 1875?—A. I could not state that; I do not know.

Q. Well, he was a stockholder at some time in that early period?—A. I could not state that he was or that he was not. He may have been a stockholder for some small amount, temporarily.

Q. Did you not sign the certificate for the increase of the capital stock of the Standard Oil Company on March 10, 1875, as follows: "W. H. Vanderbilt, by J. D. Rockefeller, his attorney?"—A. That I do not recall. The paper would be the——

Q. I have what purports to be only a copy of the paper. I have not the original certificate.—A. My memory does not serve me on that point.

Mr. MILBURN. You may take a copy as the original.

Mr. KELLOGG. I have a certified copy.

Mr. MILBURN. It is a public record.

Mr. ROSENTHAL. Treat it as if you had the original.

Mr. KELLOGG. It purports to be signed "W. H. Vanderbilt, by J. D. Rockefeller, his attorney," and counsel admit this may be used instead of the original.

Mr. ROSENTHAL. That is, if you say you know it to be a copy.

Mr. KELLOGG. I do not, but I think I can get the original.

Mr. MILBURN. You have every reason to believe it to be a copy?

Mr. KELLOGG. Yes, I have every reason to believe it to be.

Mr. ROSENTHAL. That is all right.

Q. What is your recollection about that?—A. I think I have answered already.

12591 Q. You think he was a stockholder at some time?—A. I say my answer is recorded here.

Q. I am not very sure exactly what you said.

Mr. MILBURN. If his name is there signed to that, "William H. Vanderbilt by J. D. Rockefeller, his attorney," he was a stockholder.

Mr. ROSENTHAL. There is no doubt about his having been a small stockholder somewhere along about that period.

Q. You said Mr. Amasa Stone was also one of the men you took in as a capitalist in Cleveland in the very early days?—A. Yes, Mr. Stone I think came in at the time, perhaps I previously testified, when we increased our capital to $1,000,000.

Q. About 1870 or 1872?—A. 1870.

Q. Mr. Stone was formerly the president of the Lake Shore road, was he not?—A. Well, he was not at this time.

Q. No, but he had formerly been the president of the Lake Shore road?—A. Away back of the oil days he had been perhaps the presi-

dent of the road. Mr. Stone was one of the builders of the road, I think.

Q. And in 1872 he was a director of the Lake Shore road, wasn't he?—A. That I do not know, when he went in as a director, or when he went out; I had nothing to do with those affairs.

Q. In 1873 he was what was known as the managing director of the Lake Shore, and was such until 1875, wasn't he?—A. He was a managing director for a period of time. Just when it began and when it ended I don't know.

12592 Q. It was in the early days?—A. It was in the early days, yes.

Q. In 1872 he was a director of the Cleveland, Columbus, Cincinnati and Indianapolis Railroad too, wasn't he?—A. That I don't know. It is very likely. He had to do with the construction of that, I think, in the 40's.

Q. In 1872 he was a director of the Jamestown & Franklin Railroad, was he not?—A. I do not know, but I presume that he may have been.

Q. What road was that?—A. The Jamestown & Franklin?

Q. Yes.—A. It was a road that came out to the Lake Shore road——

Q. And ran to the oil region?—A. Ran into the oil country there somewhere.

Q. Yes, that was the line over which the Lake Shore transported its oil from Pennsylvania to Cleveland, was it not?—A. I think it was.

Q. He was a director in that line?—A. I do not say that he was a director.

Q. Do you recollect that he was?—A. I do not recollect anything about it. I do not know.

Q. Didn't he have to do with the construction of that line?—A. That I do not know. I do not think that Mr. Stone did. I think that that was a construction of the Vanderbilts.

Q. Mr. Stillman Witt was also one of the men you got in in 1872, was he, or about that time?—A. Mr. Witt came in in 1870.

Q. He was a director in the Big Four road, wasn't he?—A. Well——

12593 Q. And in the Lake Shore also?—A. Well, I could not—I presume he was in the Lake Shore and he may have been in the other; but as to what railroads these gentlemen were directors in—they may have been in other manufacturing businesses too, and undoubtedly were.

Q. I see they were in your company. I want to find out what roads they were connected with. Mr. T. P. Handy is one of the capitalists you took in in an early day?—A. I think Mr. Handy came in about the time that Mr. Stone and Mr. Witt came in.

Q. He was also a director in the Big Four road, was he not?—A. Mr. Handy was at one time a director in the Cincinnati road; just what years I do not know.

Q. Wasn't he a director from 1860 to 1890?—A. Well, I could not—I have no idea about that at all. In my earlier recollection of Mr. Handy I think that he was one of those Cincinnati directors, but it would be impossible—it was a matter that had no interest one way or the other—in which I was in no way interested.

Q. Who was Mr. A. M. McGregor? What was his business in 1875?—A. He was engaged in the Standard Oil Company.

Q. What railroad was he connected with?—A. I never knew that Mr. McGregor was connected with any railroad.

Q. Wasn't he an officer of the New York Central Railroad?—A. Mr. McGregor was our bookkeeper.

Q. Isn't it another McGregor?—A. I do not recall any other. Have you got the first—pardon me——

12594 Q. A. M. McGregor, I think it is.—A. Ambrose—he was our bookkeeper.

Q. Mr. P. H. Watson, what railroad was he connected with?—A. I could not state what Mr. Watson's railroad work, if any, was.

Q. At the time the South Improvement contract was entered into, was he not a railroad man?—A. I could not say that he was a railroad man. He was with the railroad men.

Q. He was with the New York Central or the Lake Shore?—A. I mean to say that he seemed to have the entre to Commodore Vanderbilt. What his relation was I do not know.

Q. He was at that time connected in some way with Mr. Vanderbilt's Lake Shore & New York Central enterprise?—A. I do not know what enterprise, if any, he was connected with. I say that he seemed to know Commodore Vanderbilt.

Q. And he afterwards became president of the Erie road, did he not?—A. I think he did.

Q. Shortly afterward?—A. I do not know. I would say it must have been some years.

Q. Very shortly after 1872, wasn't it?—A. I think it was some years.

Q. And he was president of the Erie Railroad at the time he was a stockholder in your company, was he not?—A. That I could not say. I should hardly think that his stockholding—his stockholding was not continued, I should say, long, but as to the time he did not have the stock I do not know, if he did have it.

Q. Did not all of the Pennsylvania Railroad men have

12595 stock in your company at along 1870 to 1875?—A. No; no, not that I have any recollection of at all.

Q. Then you had connected with your enterprise in the early day three directors of the Lake Shore road, the president of the New York Central, the president of the Erie, and shortly after 1872 all of the parties who were stockholders in the South Improvement Company except three?

Mr. MILBURN. Well, hasn't he answered all of those questions?

Q. That is about the sum and substance of it?—A. Well, I have already answered.

Q. Now, you stated, I believe, that there were about a dozen concerns that you bought out in Cleveland in the early days. Let me read off some names and see if you recall them: Clark, Shurmer & Company.—A. Clark, Shurmer & Company.

Q. You remember that concern?—A. I do.

Q. And you have already testified to Alexander Scofield & Company?—A. I did.

Q. W. G. Williams—do you remember him?—A. I do not remember Mr. Williams. Mr. Williams was a paint man. That is, I do not recall now W. G. Williams' firm, if he was engaged in it.

Q. Westlake, Hutchins & Company?—A. Westlake, Hutchins & Company; yes, sir.

Q. You bought them out?—A. We did.

Q. Stewart & Arter?—A. Yes, sir.

Q. Critchley, Fawcett & Co.?—A. Yes, sir.

Q. Case & Reynolds?—A. Case & Reynolds I had nothing to do with. If they were bought, that was through somebody else.

12596 I do not recall any negotiation with such a firm.

Q. Short, Neill & Company?—A. Short, Neill & Company I remember.

Q. Harmon, Borne & Company?—A. Harmon, Borne & Company? I think I remember such a firm at Cleveland. I had nothing to do with any negotiations with them that I recall.

Q. You don't mean that they were not bought by the Standard?—A. I do not mean that they were not or that they were. I do not——

Q. You do not recollect. Joseph Stanley?—A. Joseph Stanley; yes, sir.

Q. Hanna, Baslington & Company?—A. Hanna, Baslington & Company.

Q. Brainerd, Barkwell & Company?—A. Yes, sir.

Q. F. Q. Barstow & Company?—A. I had no negotiations with F. Q. Barstow & Company. Probably, as in the other cases I have mentioned, some very small concerns, if they were there in the business.

Q. You remember F. Q. Barstow?—A. I do not recall the business of F. Q. Barstow & Company.

Q. Mr. F. Q. Barstow is connected with the Standard Oil Company to-day, is he not?—A. I think he is not.

Q. He has been up until late years?—A. Mr. Barstow was connected with us for years. Mr. Barstow is not connected, I think, now.

Mr. ROSENTHAL. No, he has retired.

Q. He has retired?—A. He has retired, probably on account of ill health.

Q. He was doing business in Cleveland, wasn't he, in those days?—A. Yes, sir.

12597 Q. Sold out to the Standard Oil?—A. That I do not know.

Q. When did he become connected with the Standard Oil?—A. He was for years with us out there.

Q. Nein Brothers, do you remember them?—A. No; I do not remember. If they were there, they were some—how is the name spelled?

Q. N-e-i-n.—A. Nein—no, I do not recall Nein Brothers.

Q. Kellogg, Goodwillie & Company?—A. Kellogg, Goodwillie & Company?

Mr. MILBURN. You ought to disclaim that, Mr. Kellogg.

Q. Do you remember that?—A. I remember Mr. Goodwillie.

Q. You remember Mr. Goodwillie, but have no recollection of Mr. Kellogg?

Mr. MILBURN. He is going to keep you out. [Laughter.]

A. Yes, there was such a firm. At all events there was a firm in which Mr. Goodwillie was a partner.

Q. Henry C. Smith?—A. H. C. Smith had a very small refinery at some time.

Q. A. M. Burke?—A. I think that Mr. Burke either had a refinery or a refinery interest with somebody.

Q. Cleveland Petroleum & Refining Company?—A. Have you got the names of the gentlemen? I could tell if you give the names of the men connected with it.

Q. Cleveland Petroleum Refining Company. You do not remember that?—A. Well, I desire to know if I can associate some names. It is in such a way that I would refresh my memory on it, if we can find out any name connected with that.

Q. Also Clark, Payne & Company?—A. Clark, Payne & Company was the first.

12598 Q. I think that makes fifteen or sixteen that you recollect. I will inquire about the Cleveland Petroleum Refining Company.—A. I could associate it by the names of some——

Q. J. W. Turnbull & Company, do you remember that?—A. I think there was such a name. I never had any negotiation with them.

Q. Backus Oil Company?—A. The Backus Oil Company was an oil company of a later period, some years afterward. Their works were bought several years afterward, and that was true, I have no doubt, of different of these concerns with which I personally did not have to do.

Q. That was bought out at some later time you say?—A. Yes, sir.

Mr. ROSENTHAL. In the late 70's.

WITNESS. I should say five or six years later.

Q. You had to do with the buying of the Backus Oil Company personally, hadn't you?—A. I had very little to do with it. I think I had one interview respecting it.

Q. Hanna, Chapin & Company, do you remember that?—A. Hanna, Chapin & Company were another firm.

Q. When were they bought?—A. Some years after 1872. I do not recall the date.

Q. Bishop & Heisel?—A. Bishop & Heisel were a concern——
Q. You bought them out?—A. I am not positive whether we ever bought Bishop & Heisel. If we did, it must have been four or five or six years more or less, I should say, without being able to fix the date definitely.

Q. Then it is a fact that you did buy out in the neighbor-
12599 hood of twenty or perhaps twenty-five separate concerns in Cleveland, isn't it?

Mr. ROSENTHAL. When?
Q. Between 1872 and 1875 or '6?—A. The number I can not state. Those that I had personally to do with, and to which some reference has already been made——
Q. Now, of all those concerns that you bought out in those years, how many did you keep in operation?—A. That I could not say.
Q. Any of them?—A. I should have to think that over.
Q. Most of them were dismantled, weren't they?—A. The smaller ones were utilized in our construction as best we could. The larger ones we ran.
Q. Well, which ones did you run?—A. We ran a number of those best plants.
Q. Name them.—A. Well, the Clark, Payne & Company were connected with our own works. We ran the Alexander Scofield & Company.
Q. Any others?—A. We ran the Clark & Shurmer works.
Q. How long?—A. If I had the names before me, it would help me to answer your questions.
Q. Well, you can refresh your memory between now and 2 o'clock, can't you?—A. I will answer if you will be good enough——
Q. Well, I will read them all over to you if you want: Clark, Shurmer & Company, Alexander Scofield & Company.
Mr. ROSENTHAL. Just a minute. He has not finished his answer yet.
12600 WITNESS. I have not finished.

Q. Oh, I beg your pardon.—A. We did run Clark, Shurmer & Company. We did run the Hanna, Baslington & Company, and we did run the Westlake, Hutchins & Company.
Q. How long did you run that?—A. That I could not say.
Q. Were any of them in operation outside of the Payne works in 1880?—A. Nor could I state just that.
Q. Now, if you will—I beg your pardon.—A. I think there were still other of these concerns, I should say others that we ran, but what periods I could not say. That would be quite an impossibility after thirty or forty years, such a matter of detail.
Q. Now, we were discussing, when we adjourned, these various companies which you bought up, or bought stock interests in, between 1872 and 1879, and you had explained the Charles Pratt & Company. Now, as to the Devoe Manufacturing Company, you bought simply some of the stock?—A. We acquired all the stock of the Devoe Manufacturing Company, but I should say not in the first purchase.

Q. It was some years afterward before you got the balance?—A. How long before we bought the rest I could not say.

Q. The capital stock was $300,000, wasn't it?—A. I can't state.

Mr. ROSENTHAL. I will give you that in just a minute.

Q. Who were the parties operating the Devoe Manufacturing Company?—A. Do you mean operating it when we bought it?

12601 Q. Yes; when you bought the stock interest in it.—A. The gentlemen whom I recall as one of the men was Josiah Macy, junior.

Q. Josiah Macy became a stockholder in the Standard Oil Company immediately, didn't he?—A. I do not know just when he became a stockholder in the Standard Oil Company.

Q. Didn't he get stock in exchange for his stock in the Devoe Manufacturing Company?—A. I presume that he did, although I could not state that without——

Q. It appears by the certificate that I referred to that in 1875 he was a stockholder, and that you signed his name as attorney?—A. No doubt, then, he was a stockholder.

Q. Is it your recollection then that you bought an interest in the stock of the Devoe Manufacturing Company from Josiah Macy, junior, and gave him stock in the Standard Oil in exchange for his stock?—A. I say that Josiah Macy, junior, was the gentleman I knew in connection with that company. The details as to ownerships there I have not in my mind. I had personally nothing to do with the affairs of business with them. Josiah Macy was a stockholder until his death, which occurred perhaps a year or two later.

Q. He had brothers or relatives; there was W. H. Macy and there were other Macys, were there not, running that works?—A. There were other Macys.

Q. Did they continue to operate the plant of the Devoe Manufacturing Company during those subsequent years down to 1882?—A. I should say that the Macys did not continue after Josiah Macy's death.

Q. Who did?—A. That is, I should say that they were

12602 not administrators of that property.

Q. Who did administer it?—A. That I do not now remember. There were gentlemen associated in that organization who were familiar with that business. The names of these gentlemen I do not recall.

Q. The men who were connected with the Devoe Manufacturing Company at the time you bought the interest continued to operate it down to after 1882, did they not?—A. Well, Mr. Macy died. Somebody else must have administered after he passed on. Who it was I do not recall.

Q. You do not recollect putting anyone in there in the places of the parties who were operating it at that time?—A. I assume that the Devoe Manufacturing Company organization attended to such matters themselves.

Q. And that concern continued as a separate concern, doing its business as a manufacturing company and shipping company continuously down to after at least 1882?—A. Oh, I think so.

Q. Now take Chess, Carley & Company. That was a corporation, too, wasn't it?

Mr. ROSENTHAL. Not when the interests were first acquired.

A. I should say that Chess, Carley & Company were not a corporation when we purchased the interests there.

Q. Who were the men in charge of it?—A. Mr. Carley was the head of that concern.

Q. That concern had a refinery at Louisville?—A. At Louisville.

Q. And it was selling oil throughout the Southern States, was it not?—A. Yes, sir.

12603 Q. A large marketing concern, wasn't it?—A. Yes; a very considerable business.

Q. And Mr. Carley managed it?—A. I think so.

Q. And continued to manage it after you purchased this interest in it for many years, didn't he?—A. He did.

Q. Down past 1882?—A. I do not remember when Mr. Carley retired.

Q. It was operated as Chess, Carley & Company in the same manner that it had been before the purchase?—A. I had not to do with it personally. That came with gentlemen who had to do with such affairs. I should say it might have been so; yes, sir. I do not——

Q. Now, the Imperial Refining Company of Oil City was another concern you testified about?—A. Yes.

Q. You said Mr. J. J. Vandergrift and John Pitcairn were the parties connected with this corporation.—A. Those two gentlemen were connected.

Q. At the time of this purchase?—A. I think so.

Q. They were stockholders in the Imperial Refining Company at the time you bought the stock, were they not?

Mr. ROSENTHAL. No; that is not the testimony.

Mr. KELLOGG. I am asking Mr. Rockefeller if that is not the fact.

Mr. ROSENTHAL. It was first a limited partnership, when the Standard interests acquired it.

Mr. KELLOGG. Well, either a corporation or a limited partnership.

Mr. ROSENTHAL. The corporation was organized by the

12604 Standard Oil Company itself.

Mr. KELLOGG. Just one moment, Mr. Rosenthal.

WITNESS. They were interested in that business of the Imperial Refining Company.

Q. Yes, and that business was at that time either a corporation or a limited partnership.—A. I suppose it was, but I do not know just what their organization was.

Q. Well, a limited partnership under the laws of Pennsylvania has stock, has it not? Don't you understand that to be a fact?—A. I presume they do, though I do not recall personally having to do with such stocks in my business.

Q. What you acquired at that time was stock of the Imperial Refining Company, a limited partnership of Pennsylvania, wasn't it?—A. We bought that refinery—that plant.

Q. Did you take a deed of the refinery?—A. The legal details I could not explain. That was left——

Mr. MILBURN. A corporation was organized and the refinery conveyed.

Q. I understand, but it did belong to a limited partnership at the time you bought the stock?

Mr. MILBURN. That is a fact.

Q. Isn't it?—A. Presumably so.

Q. Now, another corporation, called the Imperial Refining Company (Limited), was organized and this property transferred to that corporation, was it not?—A. I should say so.

Q. And you took stock in that corporation?

Mr. ROSENTHAL. Took it all.

Q. Took it all, then; took all the stock of that corpora-
12605 tion?—A. We bought out all that business, I know.

Q. Did you buy the stock, or did you buy the business and take a deed of the property?—A. I say the legal details were left to the attorney.

Q. That refinery was not conveyed to the Standard Oil Company of Ohio, was it?—A. I say I can't give the legal details. That is a matter I did not attend to.

Q. How do you know you bought it?—A. I beg your pardon.

Q. How do you know you bought it if you didn't find out whether it was conveyed to the Standard Oil Company?—A. How do I know that I bought it?

Q. Yes.—A. Well, I had negotiations with Captain Vandergrift respecting it, and I have no doubt on that subject, as I recall it.

Q. As I understand, you testified that it was conveyed to the Imperial Refining Company (Limited), a corporation.

Mr. MILBURN. That is the fact.

Q. And you took the stock of that corporation?—A. Yes.

Mr. ROSENTHAL. Subscribed for all the stock of the corporation in 1878, took it all, and paid for it.

Q. But that corporation was organized to take over the property of the Imperial Refining Company, a limited partnership, which had previously existed, wasn't it?

Mr. ROSENTHAL. That is quite right.

A. It was organized, if organized, to take over the property.

Q. How did you pay for it?—A. I can't say whether we bought that property for cash——

Q. Is it not a fact that Mr. John Pitcairn and Mr. J. J. Vandergrift immediately on the purchase of that property became stockholders in the Standard Oil Company?—A. If we gave them stock of the Standard Oil Company for the purchase they would have become stockholders then. The question was whether it was bought

with the stock of the Standard Oil Company or bought with cash.

12606 Q. Well, I ask you if J. J. Vandergrift and John Pitcairn did not become stockholders in 1875 at the time you bought that property, and if their names were not signed as stockholders?—A. They both became stockholders. Whether it was in connection with that transaction I could not state from my memory.

Mr. MILBURN. The Imperial was first bought in 1874.

Q. Yes, and they were stockholders in 1874. Didn't they immediately on the purchase become stockholders?—A. They both became stockholders. The only question in my mind is whether it was in connection with that transaction, and therefore I could not state to you the date at which they became stockholders.

Q. Did they continue to manage the Imperial Refining Company?—A. I should say they did, that the Captain did.

Q. Capt. Vandergrift?—A. Mr. Pitcairn, I should say, was not the active manager of the refinery.

Q. When you bought in or bought that interest, Mr. Vandergrift was the active manager, was he?—A. I should say the Captain was the head of the business.

Q. And he continued to be so for many years?—A. That I could not state. He did continue. My belief would be that he did continue for quite a number of years. He had other large business interests that turned him away later on, but I should say for quite a number of years he was——

Q. Until after 1882?—A. I don't know that.

Q. What is your best recollection?—A. Well, I could not state that definitely. It is quite likely that he may have, though I do not know.

12607 Q. That refinery was operated and did business after 1874 or '5, when you purchased it, in the same manner it was before, was it not?—A. I do not know what manner they had of conducting their business before. I do not know about their previous way of doing things; if you speak of the modus operandi of the conduct of their business, I had not been familiar with that.

Q. It continued as a refinery to refine oil and sell it in the market?—A. Oh, yes.

Q. You know of no particular change in the business, do you?—A. I should say that the business was conducted——

Q. In the same manner, would you?—A. Well, was conducted as a refining business right along.

Q. What?—A. I say it was conducted as a refining business, an independent refining concern there.

Q. You testified that about the same time you bought this Charles Pratt & Company, you bought Warden, Frew & Company's business, and the Standard Oil Company of Pittsburg?—A. Yes, sir.

Q. Warden, Frew & Company owned the Atlantic Refining Company, did they not?—A. I think that the members of Warden, Frew

& Company were at least the largest owners, if not the entire owners, of that Atlantic Refining Company.

Q. That was a large refinery at Philadelphia?—A. Yes, sir.

Q. They continued to manage the Atlantic Refining Company! You got the stock of the Atlantic Refining Company, didn't you?—A. We got all the business, all there was there to get.

Mr. ROSENTHAL. And incorporated it.

12608 Q. Did you get the stock?—A. I presume it was a corporation at the time.

Q. The Atlantic Refining Company was? Did you get the stock, I asked you?—A. Presumably so.

Q. And took Warden, Frew & Company in as stockholders of the Standard Oil Company?—A. Mr. Warden, Mr. Frew, and Mr. Lockhart were stockholders of the Standard Oil Company.

Q. They became immediately stockholders of the Standard Oil Company?—A. I think so.

Q. You exchanged stock in the Standard Oil Company for their stock in the Atlantic Refining Company?—A. We bought out their entire property and business.

Q. Did you buy the physical property and take a deed of it, or did you buy the stock?—A. The legal details of that I can not give you; I had nothing whatever to do with it.

Q. You have been over this matter lately, haven't you, to refresh your memory?—A. My attention has been called to this.

Q. You must know whether you got the stock of the Atlantic Refining Company or whether the Standard Oil Company took a deed of the refinery itself?—A. I may say that any refreshing of my memory did not carry me into all of the legal details as to the fact of the acquirement of the property.

Q. The stock of the Atlantic Refining Company was not retired at that time, was it?—A. I don't think it was.

Q. It went to you people or to the Standard Oil Company of Ohio, didn't it?—A. I presume it went no doubt to the interests.

Q. And the corporation, the Atlantic Refining Company,
12609 continued to hold the property that it held at the time you bought the stock?—A. I have no doubt it did.

Q. Warden, Frew & Company continued the management of it?—A. Mr. Warden was the president, I think. Mr. Warden would have been the one to continue the management.

Q. The same parties continued the management after the purchase?—A. I can not say now just as to changes in such respects as that. Mr. Warden I know was the active representative of that Atlantic Refining Company interest.

Q. Well, the same parties continued to manage it until after 1882?—A. I think that it was after that, before Mr. Warden's death, and he continued actively for a number of years.

Q. The company was operated as an independent company during all these years?—A. The company was operated—continued right along, the Atlantic Refining Company as a refining business there in Philadelphia, yes.

Q. No change in the management that you know of?—A. Changes in the management, of course, in the death and the retirement of the people as the years went by—such changes.

Q. The Standard Oil Company of Pittsburg was a corporation existing in Pittsburg, was it? That is, that was its place of business?

Mr. ROSENTHAL. What company was that?

Mr. KELLOGG. The Standard Oil Company of Pittsburg.

WITNESS. The Standard Oil of Pittsburg?

Q. Yes.—A. I think it was a corporation.

Q. Who controlled that?—A. Major Frew and Mr. Lockhart.

Q. Mr. Charles Lockhart?—A. And Mr. Warden may have been interested in it. There may also have been others interested in it as stockholders, but the gentlemen so known in connection
12610 with that were Mr. Charles Lockhart and Major Frew, and I suppose, as I say, that Mr. Warden was also interested in it.

Q. You bought the stock of the Standard Oil Company of Pittsburg, did you?—A. We did the same thing that we did with reference to the balance of the trade—whatever we did in regard to the balance of that same transaction. I think this whole transaction of the Philadelphia and of the Pittsburg interests was one and the same thing.

Q. You mean you bought the stock or that you bought the property?—A. I can not state about the legal mode. We bought all those businesses and properties.

Q. You immediately took Mr. Charles Lockhart, Mr. Frew, and Mr. Warden in as stockholders of the Standard Oil, did you not?—A. They all became stockholders.

Q. Now, as I understood you the other day, the property of these three concerns, Charles Pratt & Company, Warden, Frew & Company, and the Standard Oil Company of Pittsburg, you took in on a valuation, did you not?—A. We did.

Q. How much?—A. The valuation I could not recall. We estimated their properties fairly and came to a satisfactory arrangement as to proper values.

Q. Did you pay for it in stock of the Standard Oil Company?—A. They acquired stock in the Standard Oil Company in connection with that purchase.

Q. Did you pay any money?—A. I don't think we did.

Mr. ROSENTHAL. What purchase is that?

Mr. KELLOGG. Charles Pratt & Company, the Standard Oil of Pittsburg, and the Atlantic Refining Company.

12611 WITNESS. We are now speaking of the Atlantic Refining Company. We are not now speaking of the Standard Oil of Pittsburg. I understand you were asking me in reference to Charles Pratt & Company.

Q. Very well. Then you paid no money for that?—A. I don't recall that we did.

Q. Did you pay any money for Warden, Frew & Company's business, the stock of the Atlantic Refining Company?—A. I should say that we did not pay money.

Q. You paid stock of the Standard Oil?—A. I should say that they got the stock of the Standard Oil Company. That was the outcome.

Q. The same as to the Standard Oil of Pittsburg?—A. Well, I have previously said, I think, that that whole transaction, that Philadelphia interest and the Pittsburg interest in reference to which we have spoken before, was one, and that this group of gentlemen owned all or largely all these interests. The details of that I was not then conversant with.

Q. Did the Standard Oil Company of Pittsburg continue to operate its business there in the same manner?—A. For some years.

Q. Mr. Charles Lockhart managed it?—A. I should say that Mr. Charles Lockhart and Major Frew were the chief administrators. There was also an old associate of theirs who joined, but I think they were the chief administrators of that business.

12612 Q. You testified, as I recollect, also about the purchase of the business of Porter, Moreland & Company and Bennett, Warner & Company, did you not?—A. I think I did.

Q. As I understand you to say, Porter, Moreland & Company's concern was bought, and Bennett, Warner & Company; is that correct?—A. I think that is.

Q. And do you remember Easterly & Davis?—A. I remember the name of such a firm in Titusville.

Q. Was that bought also?—A. Well, I could not state from my recollection about the Easterly-Davis—Easterly-Davis, is it?

Q. Yes, Easterly & Davis.—A. Easterly & Davis.

Q. Octave Oil Company?—A. That I do not know from my own recollection.

Q. John Jackson?—A. I had nothing to do with any negotiations there, or our Standard Oil people of Cleveland, excepting this Porter, Moreland, and the——

Mr. ROSENTHAL. Bennett, Warner.

WITNESS. And the concern in which Mr. Archbold was a partner—Bennett, Warner.

Q. I understood you to say you bought these properties of Porter, Moreland & Company and Bennett, Warner & Company, and organized the Acme Oil Company.

Mr. ROSENTHAL. Yes; that is right.

A. That we did, yes, sir.

Q. Did you organize that company?—A. The Standard interests organized that.

Q. Who did organize it—Mr. John D. Archbold?—A. I can not tell you what individual.

Mr. MILBURN. See if you can remember who the men were.

12613 WITNESS. It would probably be Mr. Warden, Mr. Pratt, Mr. William Rockefeller, and I should say that Mr. Bennett as well as Mr. Archbold would have been those engaged.

Q. These properties that were bought were conveyed to the Acme Oil Company. Is not that true?—A. I believe it is.

Q. Then you did not buy, nor did your concern buy, the property of Porter, Moreland & Company, or of Bennett, Warner & Company, did you?—A. I think that the purchases were made and that the organization of that company came after. The purchases were made by the Standard Oil Company interests.

Q. Well, do you remember Mr. Archbold testifying in relation to this matter before the Hepburn committee of the legislature of New York on October 15, 1879?—A. I might have known about it.

Q. Do you remember looking it up afterwards to see what he testified to?—A. I do not recall that I looked it up after that.

Q. Let me read you two or three sentences of his testimony which appears in the record in this case: "Q. How long has the Acme Oil Company been one of the Standard Oil companies? A. The Acme Oil Company is the Acme Oil Company. It is not the Standard Oil Company at all. Q. How long has it been controlled by or affiliated with the Standard Oil Company? A. It is an independent organization; it is not controlled by or affiliated with the Standard Oil Company at all. Q. Has it no control with the Standard Oil Company? A. It has no control with the Standard Oil Com-
12614 pany."—A. I suppose it was an independent organization under the laws of the State of Pennsylvania, with its own officers, and managed its own affairs. So far I answer.

Q. Very well. Is it true, as he said, that it was an independent organization and not controlled by or affiliated with the Standard Oil Company at all?—A. I presume the correct interpretation of Mr. Archbold's testimony in that regard would be that it was an interest held by individuals and not by the Standard Oil Company of Ohio.

Q. Would you call it affiliated with the Standard Oil Company of Ohio?—A. It was surely an independent concern firstly, and, secondly, it was not owned by the Standard Oil Company of Ohio.

Q. Or controlled by it?—A. It was controlled by its directors and——

Q. Now, do you swear, Mr. Rockefeller——

Mr. MILBURN. Why do you do that, Mr. Kellogg? That is not Mr. Rockefeller's testimony. You have Mr. Archbold——

Q. Mr. Rockefeller, do you testify that it was an independent organization not controlled or affiliated with the Standard Oil Company at that time?

Mr. ROSENTHAL. He testifies to the facts, as he has already done, as to the stock holding.

Mr. KELLOGG. He has testified several times on this subject.

Mr. ROSENTHAL. I object to that question on the ground that it calls for the legal conclusion of the witness. He is not a lawyer. He has told you how the stock was held. He has told you that
Mr. William Rockefeller, Mr. Warden, Mr. Pratt, Mr.
12615 Archbold, and Mr. Bennett were the stockholders of that company, and that it was a Pennsylvania corporation. Now, as to whether that makes it legally affiliated with the Standard Oil

Company or not, I think the witness ought not to be called upon even to express an opinion.

Q. Was it controlled by or affiliated with the Standard Oil Company any time during those years?—A. I suppose it was controlled by these individuals and that it was owned not by the Standard Oil Company of Ohio, though I do not here undertake to interpret the mental processes of Mr. Archbold or Mr. Cassatt or anybody else thirty or forty years ago, or as to how they were advised by their attorneys as to these ownerships.

Q. Mr. Rockefeller, this is not a legal question; it is a practical question, a business question, whether during those years the Acme Oil Company was controlled by or affiliated with the Standard Oil Company or was not.

Mr. MILBURN. I think the objection which has been urged to that is a perfectly proper one. You know as well as I know that "control" is a legal conception. One man would say that is control and another would say it was not. That is purely a legal conclusion.

A. I suppose that Mr. Archbold's testimony was the view of the ownership. The Standard Oil Company of Ohio did not own the property. The control of the property was in individuals. I suppose that that would be the fair legal interpretation; I suppose that would be proper.

Q. What became of the stock of the Acme Oil Company?—
12616 A. What became of it at that time?

Q. At the time of its organization.—A. I suppose the stock of the Standard Oil Company was held by individuals.

Q. I ask you what became of the stock of the Acme Oil Company?—A. I suppose the stock of the Acme Oil Company was held by individuals.

Q. What individuals?

Mr. ROSENTHAL. He has already named them.

A. I think I have already named them.

Mr. KELLOGG. No; I do not recall.

Mr. MILBURN. Mr. Kellogg, it was held by them until it went to Vilas, Keith & Chester in 1879.

A. I think I did mention the names of these men who presumably were the men who held that stock.

Q. I do not think so.—A. I should say that Mr. Archbold would have some of that stock. Mr. Bennett would be the owner of some of that stock.

Q. What stock are you referring to?

Mr. ROSENTHAL. The Acme.

A. The stock of which you were asking me, the Acme.

Q. I thought you said that the Standard Oil bought that stock.

Mr. ROSENTHAL. He said the Standard Oil interests.

A. Standard Oil interests, I said.

Q. What interests in the Standard Oil bought the stock of the Acme Oil Company?—A. The property, whatever it was, that
12617 was acquired there was acquired for the stockholders of the

Standard Oil Company. It was not acquired by the Standard Oil Company of Ohio, as we have hitherto set forth.

Q. Was it acquired in the same manner as the stock of the Atlantic Refining Company and the stock of the Standard of Pittsburg and the stock of Charles Pratt & Company?—A. It would be impossible for me to tell you just the method of acquiring that. It was a matter with which I had nothing whatever to do. Any of those legal questions were questions determined by the counsel, as to what was right and what was proper.

Q. That is not what I am driving at. The Acme Oil Company got all these properties of Porter, Moreland & Company and Bennett, Warner & Company, that you testified about?—A. Yes.

Q. Very well. Now, what became of the stock of the Acme Oil Company?

Mr. ROSENTHAL. When?

Mr. KELLOGG. On its organization.

A. That stock was held by individuals, I should say.

Q. What individuals?—A. I should say by Mr. Archbold, by Mr. Bennett, by Mr. Charles Pratt, by Mr. Warden, or Warden, Frew & Company, and possibly my brother William.

Mr. ROSENTHAL. He was the largest stockholder?

WITNESS. Yes.

Q. Did they own that or did they hold it for somebody else?—A. They held that stock for a period of time until it was turned over to the trustees, Vilas, Keith & Chester, I should say from my recollection.

12618 Q. Between 1875, at the time the Acme Oil Company was organized, and the date of this first trust agreement, in 1879, did these gentlemen own that stock or did they hold it for the benefit of somebody else?—A. I should say that largely it was held for the benefit of the real owners.

Q. Who were the real owners?—A. The real owners of at least a large part of it must have been the stockholders, those gentlemen who were stockholders in the Standard Oil Company of Ohio.

Q. Then the stock was held by those men between 1875, the time of its purchase, and 1879, when this trust agreement was made, for the benefit of the stockholders of the Standard Oil Company, was it?

Mr. MILBURN. Yes.

Mr. ROSENTHAL. That may go into the record.

Q. Is that right?—A. I say that in respect at least to a large part of it. As to the ownership of Mr. Archbold I do not say.

Mr. MILBURN. You are not speaking for Mr. Archbold's shares or Mr. Bennett's shares?

WITNESS. No. As to probably $225,000 of that $300,000.

Mr. ROSENTHAL. $225,000 out of $300,000 was held for the benefit of the stockholders of the Standard Oil Company of Ohio?

WITNESS. Yes.

Mr. KELLOGG. That is, in the same manner that the Charles Pratt stock was held and the other stocks held?

Mr. ROSENTHAL. No.

12619 Mr. MILBURN. They were existing corporations, Mr. Kellogg.

Q. You understand that between 1875 and 1882 the Acme Oil Company's refineries were in no way connected with or controlled by the Standard Oil Company?—A. Well, I have not so testified.

Q. How do you testify on that subject?—A. I believe I have not. If I have, it is in the record.

Q. Very well. How do you now testify on that subject?

Mr. MILBURN. The witness has testified to all the facts, Mr. Kellogg.

Mr. KELLOGG. No; he has not.

Mr. MILBURN. Now, whether that is what you call control or I call control or he calls control is a conclusion. He has testified who held the stock, who the stockholders were. Every fact is given.

Q. Please answer the question.—A. I should say that these gentlemen had the control of that property.

Q. Which gentlemen, the men you have mentioned?—A. I should say that Mr. Warden, of Warden, Frew & Company, William Rockefeller, Mr. Bennett, Mr. Archbold, and Mr. Pratt had the control of it.

Q. And they held the majority of it for the stockholders of the Standard Oil Company, did they?—A. They held the majority of it for the stockholders of the Standard Oil Company.

Q. And was that a part of the stock which was by this trust agreement of 1879 transferred by the Standard Oil Company to Vilas, Keith & Chester?

Mr. ROSENTHAL. Let me have that question, please.

12620 (The question was read by the reporter.)

Mr. ROSENTHAL. It was later than the date of that trust agreement that the Acme stock was transferred.

Q. Was it also transferred by the Standard Oil Company to Vilas——

Mr. ROSENTHAL. Some time between 1879 and 1882.

Q. Well, some time between 1879 and 1882 was that stock transferred by the Standard Oil Company to Vilas, Keith & Chester?—A. I could not say when that stock was transferred.

Q. Of whom did you buy the Long Island Refining Company—from what individuals?—A. I think that Josiah Macy, jr., was interested in it, and Mr. W. T. Wardwell and Mr. William Henry Macy.

Q. Now, all three of those parties at that time became stockholders in the Standard Oil, didn't they?

A. At that time or soon after; they were stockholders for years, those gentlemen.

Q. They received stock for the Long Island stock, didn't they?—A. Very likely they acquired their stock at that time.

Q. Did you pay cash or stock?—A. I should say, without remembering definitely as to that matter, that that was bought with stock.

Q. Did the Acme Oil Company continue to be operated as an independent concern in Titusville down until after the year 1882?—A. The Acme Oil Company undoubtedly did continue until after 1882.

Q. Entirely separate in its business and management from the Standard Oil?—A. Just as it had been right along all the time.

12621 Q. Did Mr. Archbold manage it?—A. Mr. Archbold managed it for a time. When he ceased to manage it, if he did, I could not recall that detail.

Q. Was Mr. Archbold a stockholder in the Standard Oil Company in 1875?—A. I do not know, from my recollection, when Mr. Archbold became a stockholder of the Standard Oil Company of Ohio.

Q. Immediately after the purchase of this Acme stock Mr. Archbold became a stockholder in the Standard Oil Company, didn't he?—A. I do not know that he did. I do not know at what time he did become a stockholder.

Q. Now, the American Lubricating Oil Company of Cleveland and the Mica Axle Grease Company of Pittsburg—you also got the stock of those concerns, didn't you?

Mr. ROSENTHAL. That is the Mica Axle Grease Company of Cleveland.

Q. Of Cleveland? He said Pittsburg.

Mr. MILBURN. I said Pittsburg.

A. Is it Mica?

Q. That is what your counsel said.

Mr. ROSENTHAL. M-i-c-a; yes.

A. I think that was a Cleveland concern and that the American Lubricating Oil Company was a Cleveland concern.

Q. They were corporations?—A. Well, I do not know whether they were incorporated under the laws of the State of Ohio or not.

Q. Who were the owners of that?—A. As to the Mica, I do not think I recall any of those people. I remember a Mr. Jen-

12622 nings, of the other company. These were concerns that I personally, I believe, had nothing whatever to do with. My negotiations were with a few of the larger concerns in the beginning.

Q. Did any of the former owners of that concern become stockholders immediately, or shortly after, in the Standard Oil Company?—A. Of which concern?

Q. The American Lubricating Oil Company and the Mica Axle Grease Company of Cleveland?—A. It would be my recollection that they did not become stockholders, or any of them, at any time, but it would be impossible to tell. I have no recollection of any of those people becoming stockholders.

Q. Referring to that Empire Transportation Company, part of the property of which you bought, did Sone & Fleming Manufacturing Company own any of the refineries of the Empire Transportation Company?—A. Sone & Fleming owned this large refinery. These two gentlemen, I think, owned that in the outset.

Q. Who—Sone & Fleming?—A. Sone & Fleming.

Q. Was that transferred to the Empire Transportation Company; that is, the stock I mean of Sone, Fleming & Company? Did that go to the Empire Transportation Company?—A. I do not know as to that. That would have been a transaction as between Sone & Fleming and the Empire Line people.

Q. You acquired then at the time of that purchase the stock of the Sone & Fleming Manufacturing Company?—A. At that time, Mr. Kellogg, we acquired a part of that.

Q. Stock?—A. A part of that Sone & Fleming business.

12623 Q. You acquired all of the stock of the Sone & Fleming that the Empire Transportation Company owned?—A. Whatever interest the Empire Transportation Company or the Empire Line people had came to us, my recollection is, in that transaction.

Q. That was stock, wasn't it?—A. That I don't know.

Q. Who owned the Philadelphia refinery?—A. I suppose that was owned by the party, or by the Empire——

Mr. MILBURN. The Empire Transportation Company owned all of its stock.

Q. I know, but what was the name of the concern?

Mr. MILBURN. The Philadelphia Refining Company.

Q. Very well——A. I should not have recalled the name from——

Q. You don't remember?—A. I recall, now that I hear the name.

Q. Then you got the stock of the Philadelphia Refining Company and the Sone & Fleming Company, or a part of it, at least?

Mr. ROSENTHAL. He got all of the Sone & Fleming in 1877.

WITNESS. At that time we only got a part of the Sone & Fleming, if I remember correctly.

Q. Did the Sone & Fleming and the Philadelphia Refining Company continue to operate those refineries?—A. Did they continue to operate them after these purchases?

Q. Yes.—A. As to Sone & Fleming, I recollect that they did continue for some years. As to the Philadelphia refining inter-

12624 est, I do not recall how that was.

Q. Now, the Camden Consolidated Oil Company was a corporation, was it?—A. I should say that it was a corporation, although I do not know.

Q. It was previously a partnership, wasn't it?—A. You mean previous to the time of our purchase?

Q. Yes.—A. In answering that I thought it might be a corporation I am referring to the time of our purchase. It might have been a partnership in the earlier days.

Mr. ROSENTHAL. J. M. Camden & Company was the copartnership.

Q. Immediately on the organization of the Camden Consolidated Oil Company you took the stock of that company, and Mr. Camden and Mr. Thompson became stockholders in the Standard Oil Company, didn't they?—A. I should say so, then or soon after.

Q. They were paid for their interests by stock in the Standard Oil, were they?

Mr. ROSENTHAL. No.

WITNESS. That I do not know, what the payments were made in; but Senator Camden and Colonel Thompson were both stockholders at the same time, and for years.

12625 Q. I notice in this list of stocks turned over to Vilas, Keith & Chester under the trust agreement of 1879 the stock of the Baltimore United Oil Company. How did you get that?—A. We acquired properties in Baltimore. Presumably that company was organized, though I do not know whether it was organized before or not.

Q. Didn't Mr. Camden have to do with that?—A. I think he did.

Q. And you took the stock of the Baltimore United Oil Company, didn't you?—A. I do not remember the legal steps in that transaction.

Q. When did J. A. Bostwick become a stockholder in the Standard Oil Company?

Mr. ROSENTHAL. You asked him that, Mr. Kellogg.

Mr. KELLOGG. I want to connect it up.

Mr. ROSENTHAL. He said he could not tell you exactly.

A. I do not think I know.

Q. It was prior to 1875, wasn't it?—A. I should say so.

Q. What properties did you get of Mr. Bostwick in exchange for stock which he got in the Standard Oil, if any?—A. We got dock property and warehousing property, I think, and we got a canning establishment.

Q. Where?—A. Up in the neighborhood of our Long Island properties. I should say that that property was located just across the slip up the East River from Long Island.

Q. What were the names of the corporations that Mr. Bostwick controlled, if any?—A. I do not recall corporations.

Q. Did you get any pipe line stocks?—A. I should say that we did acquire some pipe line stock from Mr. Bostwick.

12626 Q. In what companies?—A. I think that the pipe line stock of the American Transfer Company, or the interest in that American Transfer Company, came from Mr. Bostwick.

Q. Wasn't that stock?—A. That I don't know.

Q. Did you get any stock in the United Pipe Lines?—A. After they were organized we got some stock in the United Pipe Lines. Whether we bought the pipe line as an interest in a firm or whether it was stock of Mr. Bostwick in that American Transfer I do not——

Q. Mr. Rockefeller, why was this trust agreement of 1879 made?—A. It was made for the purpose of holding for the benefit of these individuals for whom these interests had been acquired the properties in the form that seemed the most feasible.

(Mr. Kellogg asked that the question be read, and it was read by the reporter.)

Mr. KELLOGG. That does not seem very lucid to me.

Mr. MILBURN. Read it over again.

WITNESS. Perhaps if you have it read over again it may sound better to you.

Mr. KELLOGG. I shouldn't wonder.

Q. It was made to transfer these stocks to what parties?—A. It was made to transfer these stocks to Vilas, Keith & Chester, trustees, I think.

Q. Who were Vilas, Keith & Chester?—A. Mr. Vilas was a Cleveland man. His name was George H. Vilas.

Q. Were they interested in the Standard Oil?—A. Mr. Vilas was in the employ of the Standard Oil Company.

Q. He was not a stockholder?—A. I do not think Mr.
12627 Vilas was a stockholder in those early days.

Q. Mr. Keith?—A. Myron H. Keith was a Cleveland attorney.

Q. And in the employ of the Standard Oil Company?—A. He did business for many different firms, and we had employed Mr. Keith more or less up to that time.

Q. Who was Mr. Chester?—A. Mr. Chester was a Pennsylvania lawyer.

Q. In the employ of the Standard Oil Company?—A. I do not think he had been in the employ of the Standard Oil Company. I think Mr. Chester had not been.

Q. What companies had he been connected with as an attorney?—A. I think that Mr. Chester's work and business was either at Philadelphia or Pittsburg or down in the regions. I knew that he was a Pennsylvania lawyer.

Q. With whom was he connected? With what of these companies?—A. I do not know where his employment had been. I think that he had had more or less to do for Mr. W. G. Warden, possibly with some of those other Pennsylvania gentlemen.

Q. Now, the stock of all of these corporations which are listed in this agreement (I will give you a copy so you can have it before you) at the time that the agreement was made was held by the Standard Oil Company, was it?

Mr. ROSENTHAL. You mean the physical possession of the stock or the legal ownership?

Mr. KELLOGG. I decline to be examined by you.

Mr. ROSENTHAL. Do you mean the physical possession of the stock?

Mr. KELLOGG. The certificates of stock.

Mr. ROSENTHAL. Or the legal ownership?

12628 Mr. KELLOGG. I will ask Mr. Rockefeller.

WITNESS. Ask your question just as it is, and I will see if I can understand.

The following question was read to the witness: "Now, the stock of all of these corporations which are listed in this agreement at the time that the agreement was made was held by the Standard Oil Company, was it?"

A. What agreement is this—the agreement of 1882?

Q. No, sir.—A. The agreement of 1879. These stocks were not held by the Standard Oil Company of Ohio. They were held by individuals, I suppose.

Q. What had the Standard Oil Company of Ohio to do with them?—A. These stocks were held by individuals in the Standard Oil Company of Ohio. I should not say that the Standard Oil Company of Ohio held them at all.

Q. It says here that "the Standard Oil Company of Cleveland, Ohio, holds the possession of certificates for certain stocks and interests which it is desirable to distribute among the parties entitled thereto." And then follows a list of the corporations, and a transfer of those stocks to Vilas, Keith & Chester, as trustees, "to have and to hold said stocks to Vilas, Keith & Chester, as trustees, "to have and hold said stocks and interests; to hold, control, and manage the said stocks and interests for the exclusive use and benefit of the following-named persons, and in the following proportions named." Then follows a long list of persons. Now, did the Standard Oil then have the certificates of stock in its possession, in its treasury?—A. They might have been in the office, in the safe of the Standard Oil Company of Ohio, but my recollection would be that these stocks were held in the names of individuals as trustees.

12629 Mr MILBURN. Read the opening paragraph which Mr. Kellogg has read to you; it states the matter. Refresh your recollection from that. Mr. Kellogg has read it; now you read it.

WITNESS. I see here, by reading, just what I supposed. "Whereas such stocks and interests now stand in the names of several persons." I judge by this that the Standard Oil Company of Cleveland held possession of those certificates and that these stand in the names of individuals.

Q. Whatever interest the Standard got was conveyed to these trustees, was it?—A. All these interests were conveyed to these trustees here referred to.

Q. Now, each one of these corporations recited in this agreement was a corporation engaged in the business of refining or doing some part of the business of refining oil and selling oil, or transporting it, was it not?—A. I think very largely, if not altogether.

Q. Each was managed separately by its own officers, doing an independent business?—A. Each of these concerns was managed by its own officers in accordance with the requirements of the laws of the States under which they were organized.

Q. And each doing an independent business of its own?—A. Each had its own business to conduct.

Q. Yes, sir. And the business of no one, so far as you know, was connected with the business of any other one, was it?—A. It appears here that these same individuals owned all these interests. I think that the officers of each separate concern attended to its own business, and in that way the business of all the organizations which

12630 were represented and which were owned by these gentlemen were properly attended to.

Q. Well, what I ask you is, if the business of each one of these separate corporations was operated independently and by itself and not connected with the business of each or any of the other corporations?—A. It was operated and conducted by itself, surely; that had to be so. Each concern was operating its own affairs, its own business.

Q. Its own business——

Mr. ROSENTHAL. Let him finish his answer.

Mr. KELLOGG. All right. Have you finished?

(The witness makes no response.)

Q. Well, let us see something about it. You mean that the business of the Atlantic Refining Company was operated by itself—buying, manufacturing, and selling its products separate and distinct from any of the other companies, do you?—A. I mean that that company and each of the companies managed their own business and had their own business to attend to, and was building up each itself its separate business.

Q. That is it. Did Vilas, Keith & Chester distribute this stock according to these interests here?—A. I believe they did.

Q. They did?—A. According to the agreements for distribution.

Q. It is, among other things, agreed——

Mr. MILBURN. Oh, Mr. Kellogg——

Mr. KELLOGG. One moment. Now, let the witness answer.

Mr. MILBURN. If you want a direct answer, he knows just as well.

WITNESS. Will you kindly ask the question?

Mr. KELLOGG. Yes, sir.

Q. The agreement, among other things, provides——

12631 A. You now refer to the Vilas?

Q. Yes.—A. To the first agreement?

Q. Yes. It provides: "And to divide and distribute the same as soon as they can conveniently do so between the said persons for whose benefit they may hold the same as aforesaid, and in the respective proportions aforesaid." Did they do that?—A. Do you mean did they make——

Q. The distribution.—A. Distribution to each individual?

Q. Yes, sir.—A. I think that they turned these things over to the Standard Oil Trust, which agreement was two or three years later.

Mr. MILBURN. That is the fact.

WITNESS. I think that is what was done, Mr. Kellogg.

Q. Then they did not distribute those stocks to these parties in the proportion held by each?

Mr. ROSENTHAL. He has just answered that they turned them over to the Standard Oil trustees in 1882.

WITNESS. I think that that is just what they did with those securities.

Q. Now, who got up this Standard Oil agreement of 1882, the Standard Oil Trust? I do not mean who wrote the agreement, but who conceived the plan?—A. I should say that H. M. Flagler and

S. C. T. Dodd should have the credit for that. I am sure it was not me.

Q. It was not you?—A. No. I did not know enough about legal matters for so progressive a step as that was.

Q. You did not get up this scheme of the Standard Oil Trust?—A. No, I did not. You refer to 1882?

12632 Q. Yes, sir.—A. I am sorry to say that I did not. Mr. Flagler and Mr. Dodd were the gentlemen, chiefly, I think. No, I could not claim that credit.

Q. Mr. Milburn asked you about this agreement, and I wish you would have it before you, as I wish to ask you a few questions about it.

Mr. MILBURN. There it is. [Handing book to witness.]

Q. Before proceeding to that, will you look at that trust agreement of 1879, and look at the list of names signed after your signature, on the next to the last page, I think it is?—A. After my signature?

Q. Yes. I see the names of J. F. Freeman, Geo. W. Girty, H. B. Spelman, F. Q. Barstow, D. McIntosh, Daniel O'Day, and various other parties, signed on the right-hand column. Who were these parties, and why did they sign?—A. I come now to Mr. Freeman.

Q. I beg your pardon.—A. I come to Mr. J. F. Freeman.

Q. Yes. He is the first one in the list.—A. What, then, is your question, Mr. Kellogg, as to Mr. Freeman?

Q. These men do not seem——A. Shall I answer as to Mr. Freeman?

Q. Yes.

Mr. ROSENTHAL. He has not asked any question yet.

WITNESS. Oh.

Q. Who is Mr. Freeman, and why did he sign?—A. Do you ask why Mr. Freeman signed?

Q. Yes.—A. Mr. Freeman was in our office in New York as a cashier, I think, at the time.

Mr. MILBURN. May he not have held some of the stocks

12633 which were mentioned in that agreement?

WITNESS. Mr. Freeman was a man who was a trusted man in the employ of the company, and that would very naturally have been the work which he would have done.

Q. Well, never mind that. If you don't——A. I will answer as to the others if you wish.

Q. If you know generally why they signed. I do not care to take up much time on it.

Mr. MILBURN. As I understand, Mr. Rockefeller, from your testimony, and as the fact is, that agreement is signed by stockholders and also by some people who were not stockholders of the Standard Oil Company of Ohio, who held the legal title to some of the shares which were transferred by this agreement, by Vilas, Keith & Chester?

WITNESS. Yes.

Mr. MILBURN. That is your recollection?

WITNESS. Oh, yes.

Q. Now turning to this trust agreement, Mr. Rockefeller, of 1882. The corporations listed in the first subdivision, on page 41, were at the time each engaged in some part of the refining or other branch of the business connected with the oil business, were they not?—A. The corporations?

Q. Yes.—A. Here enumerated?

Q. Yes, sir.—A. I suppose they were.

Q. Each corporation being managed and independent of each of the other corporations?—A. Each corporation having it own functions and attending to the business it was authorized to attend to.

12634 Q. And the men who signed the agreement under the second subdivision, a large number of names, were the owners of the stocks of those various corporations, were they not?—A. The stocks of these corporations were held in this trust.

Q. This agreement recites that the parties under the second subdivision were the owners of all the stock of the corporations named in the first subdivision. Isn't that true?

Mr. ROSENTHAL. It is true that the agreement so recites?

Mr. KELLOGG. Yes.

Mr. ROSENTHAL. Doesn't it show for itself?

Mr. KELLOGG. I want to ask him another question.

WITNESS. "Also all the stockholders or members of such other corporations or limited partnerships as may hereafter join in this agreement."

Q. Were not the parties named in the second subdivision severally the owners of all the stock of the corporations named in the first subdivision?—A. These were owners ratably in these trust shares as they had been in the shares of the Standard Oil Company of Ohio. They owned all the shares of this Standard Oil Trust, if this embraces the list of the stockholders of the Standard Oil Company at the time of the formation of the trust.

(A recess was here taken until 2 o'clock p. m.)

12635 AFTERNOON SESSION.

Present: On behalf of the petitioner, Mr. Frank B. Kellogg, Mr. Charles B. Morrison, Mr. J. Harwood Graves. On behalf of the defendants, Mr. John G. Milburn, Mr. Moritz Rosenthal, Mr. John S. Miller, Mr. F. L. Crawford, Mr. Walter F. Taylor, Mr. Douglas Campbell, Mr. W. Cleveland Runyon.

JOHN D. ROCKEFELLER recalled and his cross-examination resumed, as follows:

By Mr. KELLOGG:

Mr. MILBURN [handing witness a book]. That is the trust agreement of 1882, Mr. Rockefeller.

Mr. KELLOGG. Mr. Rockefeller, the individuals named in the subdivision 2 of the trust agreement of 1882 were the owners of all the

stock of the fourteen corporations named in subdivision 1 of the same trust agreement, were they not?—A. The stockholders on page 41?

Q. Yes.—A. Being the owners of the trust certificates of this trust of 1882——

Q. No; you do not understand me. The individuals named under subdivision 2 of the trust agreement of 1882 owned all the stock of the 14 corporations named in subdivision 1 of the same agreement?—A. I think so; I should say so.

Q. And they owned a portion of the stock of the 25 corporations in subdivision 3 of the trust agreement?—A. I so understand it.

12636 Q. And they transferred those stocks, all of them, to the trustees named on page 45, John D. Rockefeller and others—the nine trustees?—A. I so understand it.

Q. And you trustees issued to them trust certificates for their separate holdings in these corporations?—A. In the same proportion of their holdings in the Standard Oil Company of Ohio.

Q. I will come to that. Whatever stock they owned in each one of these corporations you issued to them trust certificates for, did you not?—A. We issued to them trust certificates so that each received his just proportion of the whole.

Q. Let us see. You stated, I believe, the other day that the stocks of all these 39 corporations were valued—a valuation placed upon them. Is that true?

Mr. ROSENTHAL. No; he did not so state. He stated that the properties were valued.

Q. Well, the properties represented by the stocks. Is it not a fact that the books of the Standard Oil Trust show that the stock of each one of these 39 corporations was transferred to the trustees, was valued and entered in the journal of the trustees' accounts? [Handing witness a book.] I show you petitioner's Exhibit 250, page 1, which purports to be a transcript of the journal entry, showing the value of the stocks of each separate corporation so placed in the trust, and showing the amount of the trust certificates issued for each.—A. I see here that these various stocks appear with values set opposite and that the aggregation is $70,027,000.

Q. Well, the 27 thousand dollars was for a transaction sub-

12637 sequently; in April, was it not?—A. I do not know about that.

Q. It purports to be, does it not?—A. Oh, I see that April 25 is; yes.

Q. Now, the previous transactions show that the stock of each corporation was separately valued and put down on the books of the trustees, do they not?—A. I see here that values are put over against these various stocks and companies.

Q. Is it not a fact that the stock in each corporation so held by those individuals, or owned by them, was separately valued and trust certificates issued to the amount of the stocks of each corporation so valued?—A. The trust certificates were issued for 70 million dollars.

Q. I do not think that answers the question. I will have it read.

(The question was read by the reporter.)

A. I see here that values are put over against these different stocks, and that the aggregation of values is the amount I have stated, 70 millions of dollars.

Q. Now, I ask if it is not your understanding that the stock of each company was so separately valued and entered in the journal of the trustees?—A. I see it here.

Q. Is not that your understanding?—A. I do not remember about that bookkeeping.

Q. I am asking for the fact, not the bookkeeping.—A. Well, the fact as we see it here is a fact that I did not from my recollection recall, as to just how that bookkeeping or entry was made. I do not think I have seen it since that time.

Q. Is it not a fact that the stock of each corporation
12638 so owned by those individuals was so separately valued and trust certificates issued to them in payment therefor?—A. It is here recorded; against each of these stocks is a value, and the aggregate is 70 millions of dollars, and this is all I know about this affair.

Q. You have no recollection as to whether trust certificates were issued in payment for the stock of each corporation for such valuation?—A. I am speaking now of valuation.

Q. Yes.—A. As to the trust certificates, all these different certificates of these different companies which have been enumerated were in the hands of these trustees and these trustees did issue an aggregate of 70 millions of trust certificates.

Mr. MILBURN. To those individuals?

WITNESS. To those individuals.

Q. Yes; that is, each individual stockholder in all of those companies got his proportion of the trust certificates.

Mr. ROSENTHAL. Got the same proportion in which he held stock in the Standard Oil Company of Ohio.

Q. That would be his proportion, would it not?—A. The proportion of the certificates held by the trust-certificate holders who had 70 millions is the same proportion that had been preserved by the stockholders of the Standard Oil Company of Ohio.

Q. That is, they held stock in the same proportion in the Standard Oil Company of Ohio as they did in the Acme and in the other companies?—A. They held stock in the Standard Oil Company of Ohio in just the same proportion that they held in this
12639 trust, to which everything had been transferred.

Q. But each one of these stockholders named in this trust agreement of 1882 got a certificate from the trustees in payment for what stock he owned in each and every one of the corporations, didn't he?

(At the request of Mr. Rosenthal the reporter read the question.)

A. He got that which gave to him precisely his proper proportion of all this business, and it was represented by this trust certificate, which was a part of the 70 million.

Q. He got a trust certificate from you and your associate trustees, did he not?—A. He got the trust certificates from the trustees who issued them.

Q. You were the president of the board of trustees?—A. I was the president; yes, sir.

Q. You signed the trust certificates, did you not?—A. I did sign some of them in the beginning as——

Q. And Mr. Flagler was the secretary?—A. Yes.

Q. You kept stock books, did you not, showing the number of certificates issued and to whom issued?—A. I suppose so; certainly.

Q. And those stock books showed the transfer of certificates from time to time, did they not?—A. I don't know why they should not.

Q. I do not either. They do so show, did they not?—A. I suppose they did.

Q. Where are those stock books?—A. That I can not tell you.

Q. Have you looked for them?—A No, sir.

12640 Q. Have you made any inquiry for them?—A. No, sir; I have not.

Q. Have you looked them up lately?—A. No, sir; I have been out of this business for the last fifteen years.

Q. You have been investigating this transaction within the last three or four weeks, haven't you?—A. I have given it attention; yes, sir.

Q. Looking into this matter pretty thoroughly?—A. Well, perhaps not thoroughly enough. I have been giving some attention to it, Mr. Kellogg.

Q. In your investigation of this trust period did you try to find the stock-certificate books, to show accurately to whom stock certificates were issued—trust certificates?—A. I have made no such inquiry or search.

Q. During the autumn of 1907 very great efforts were made by the Government attorneys in this case to procure those books showing the original issue and transfer from time to time of the trust certificates. No one called in the case could tell what had become of them. Now, I want to know if you can?—A. I can not. I have never been the custodian of these books.

Q. You were the president of the board of trustees?—A. I was the president. I was——

Q. You had general charge of the trust?—A. I was one of the trustees.

Q. And president of the board?—A. I was the chairman of the board.

Q. Now, from time to time you signed the trust certificates, or some of them, which were issued for these stocks, did you not?—

12641 A. That was my custom for a very brief space after the organization of this trust in 1882.

Q. Those trust certificates were sold on the market and were transferred as ordinary stock certificates, were they not?—A. I think they

were sold more or less upon the market. That is, they had a value and were exchanged.

Q. Will you make a search or cause a search to be made and see if you can find the original trust-certificate books and the stock ledger and stock journal, or certificate ledger and certificate journal, showing the original issue of trust certificates and the transfers thereof down to the time the trust was dissolved?

Mr. MILBURN. I object to that question as relating to a matter not in any way referred to or covered by the direct examination.

Q. Please answer.

Mr. MILBURN. Now, what is it that Mr. Rockefeller is asked by the question to do?

Mr. KELLOGG. Please read it.

The official reporter read the question, as follows: "Q. Will you make a search or cause a search to be made and see if you can find the original trust-certificate books and the stock ledger and stock journal, or certificate ledger and certificate journal, showing the original issues of trust certificates and the transfers thereof down to the time the trust was dissolved?"

Mr. MILBURN. Mr. Rockefeller, if I may suggest, you certainly will direct that to be done.

12642 A. I will do anything that I can; but, as I have already stated, I have not been the custodian of such books and papers for over thirty years and know nothing about them.

Mr. KELLOGG. I should like that also to include down to the time of 1900, down to the time of the organization or reorganization, whatever you call it, of the Standard Oil Company of New Jersey.

Q. The trust was dissolved in 1892, was it not?

Mr. MILBURN. Just a moment, please. I object to that question on the ground that it pertains to a subject-matter which was not referred to or in any way covered by the direct examination of the witness.

Q. Please answer, Mr. Rockefeller.—A. The trust was dissolved in 1892.

Q. Were you present at the meeting of the trust certificate holders when the trust was dissolved?—A. I believe I was.

Mr. ROSENTHAL. Let this objection go to the whole line of inquiry.

Mr. KELLOGG. Yes, to each question, without repeating.

Mr. ROSENTHAL. That is, to the whole line of inquiry relating to the dissolution of the trust.

Mr. KELLOGG. Yes, it may, without repeating the objection.

Q. That dissolution took place on March 21, 1892, did it not?—A. Some time early in 1892, if my recollection serves me right.

Q. Why was the trust dissolved?—A. The trust was dissolved in obedience, perhaps I should say—yes, in obedience to a decision of the court in Ohio.

Q. In the supreme court of Ohio?—A. The court, I think,

12643 was the supreme court of Ohio.

Q. Shortly after that decision you met and passed a resolution (that is, by you I mean the trust certificate holders) dissolving the trust, did you not?—A. I think we did.

Q. And the stocks of all the corporations that had been previously held in the trust or by you trustees were distributed to the owners or holders of trust certificates, were they not?—A. I think they were not all then and there distributed.

Q. No, but I mean the resolution provided for such distribution?—A. The resolution I believe did.

Q. Shortly after such resolution and during 1892 the majority of the stock of each corporation previously held by the trustees was distributed, was it not?

Mr. ROSENTHAL. I think it was in November, 1892.

Q. During 1892?—A. I think during that year.

Q. During that year, yes. Thereafter what did the trustees have to do with these various corporations?—A. The trustees thereafter were trustees in liquidation.

Q. What did they have to do with the corporations?—A. They were doing the things that were contemplated by the resolution, I suppose, for the winding up in obedience to that decision of the court.

Q. The trustees in liquidation, a majority of them, were the same as the previous trustees?—A. I should say they were.

Q. The trustees in liquidation had nothing to do with the management of the various separate corporations, had they?—A. I should not say that. They were officers of the different corporations.

12644 Q. I am speaking as trustees.—A. As trustees I should say that their work, as liquidating trustees, was to carry out the resolutions that were adopted with reference to the closing up of that trust.

Q. That is, to distribute the stocks to the various parties entitled thereto?—A. Whatever else was contemplated in the resolutions.

Q. Did the trustees in liquidation vote any of the shares in the subcompanies after the dissolution?

Mr. ROSENTHAL. You mean as trustees.

Q. As trustees.—A. I don't know how they could vote the shares that were—I had my shares in the different companies. They did not vote my shares I know.

Q. But the trustees continued to hold a large number of shares which were not liquidated?—A. The trustees continued to hold the shares which were not liquidated, and were proceeding in obedience to the resolution to distribute the same.

Q. As trustees, then, after this dissolution neither the trustees nor the trustees in liquidation voted any of the shares?—A. What shares do you refer to?

Q. Of the subcompanies.—A. I do not see how the trustees could vote the shares which were then in the possession of individuals.

Q. Certainly not, but as to those shares which were not liquidated and distributed, did the trustees vote those?—A. There was no voting to do that I recall.

Q. Then they did not vote them, did they?—A. I should

12645 say that what they have to do was simply to further the

accomplishment of what was decided there to be done. I should think that that was substantially——

Q. That was to——

Mr. ROSENTHAL. Wait a minute. Substantially what?

Mr. KELLOGG. I beg pardon. Substantially what?

A. That was substantially their work. I myself was never in attendance upon those meetings, I believe. It was at about the time when my active relation was ceasing, and therefore it is not difficult to understand that I could not speak of each act or thing that was——

Q. At the time of the dissolution in March, 1892, how many trust certificates were there outstanding in numbers?

Mr. MILBURN. Can't you state the amount to him?

Q. No; how many individual certificate holders?—A. Well, there were a few thousand. I could not tell you how many thousand there were.

Q. Your books would show that, would they not?—A. I think they would.

Q. I would like those books produced showing that fact, the same books that I asked for before. Then the trust was absolutely dissolved, was it, set aside?—A. So fast as the successive steps were taken and the individuals came in and the transfers were made.

Q. I notice by petitioner's Exhibit 256, that the following named certificate holders were the persons who, during the year 1892, surrendered their certificates of trust and took certificates in
12646 the original corporation or in the corporations then controlled, to wit: John D. Rockefeller, William Rockefeller, Henry M. Flagler, Benjamin Brewster, John D. Archbold, Henry H. Rogers, Wesley Hunt Tilford, Charles W. Harkness, Oliver B. Jennings, Esther Jennings, Walter Jennings, Helen G. Jennings, Oliver G. Jennings, Annie B. Jennings, Emma B. Auchincloss, estate of Charles Pratt, and Oliver H. Payne. Is that the list of stockholders who immediately or in that year surrendered their certificates and accepted their stock in the subcompanies?—A. I could not tell just the persons who did so transfer; from my recollection of it I could not.

Q. From recollection, is that about the list?

Mr. ROSENTHAL. That was taken from our books, wasn't it?

Mr. KELLOGG. Yes; this was taken from your books.

Mr. ROSENTHAL. Then that statement may go as true?

WITNESS. Yes; if that was taken from our books it is true.

Q. Now, you have no idea how many certificates holders there were at that time in number, Mr. Rockefeller?—A. Oh, I could not give you the number of them. I have already stated——

Q. There were a large number?—A. There were a few thousand, I believe, but just the number of course I can not say.

Q. Were Oliver B. Jennings, Esther Jennings, Walter Jennings, Helen G. Jennings, Oliver G. Jennings, and Annie B. Jennings, the heirs of Mr. Jennings who originally went into the——A. They were, I believe, all of them.

Q. Who was Emma B. Auchincloss?—A. She was the daughter of Mr. Oliver B. Jennings, our old associate.

Q. And the estate of Charles Pratt was the estate of Mr.
12647 Pratt, who originally owned, or with Mr. Rogers owned, the Pratt Oil Works?—A. Charles Pratt, senior; yes, sir.

Q. Now, after said dissolution in 1892, and from that time until 1899, who controlled and operated these various corporations?—A. I think these various corporations were conducted by their own directors and officers as they had been before. The business was conducted——

Q. They were——

Mr. ROSENTHAL. Wait a minute. Are you through?

WITNESS. Do you refer to the conduct of the business—how was the business administered?

Q. Yes; of each corporation.—A. The administration of each of these corporations was a business administration——

Q. Was handled by the officers of each corporation separately?—A. There were the board of directors and the presidents, and they conducted the business; they were the ones set to attend to the particular work of those corporations.

Q. That is, the board of directors and officers of each separate corporation operated that corporation?—A. I do not recall that the operation of the corporation had undergone any particular change as to the method of conducting the business.

Q. Did the stockholders of each corporation elect its board of directors?—A. The stockholders did at their elections elect the board of directors, I suppose. I do not see how it could be otherwise.

Q. Previous to the dissolution of the trust the trustees had
12648 voted all the stock, had they not?—A. I think that was their prerogative.

Q. They did it, didn't they?—A. Presumably so.

Q. After the dissolution of the trust the trustees did not vote, did they?

Mr. MILBURN. The beneficiaries voted.

A. After the dissolution of the trust the trustees did not vote. I do not remember that any trustees—I do not remember about that, for I think I never attended a meeting of those trustees after that time. At all events——

Q. What I mean is this: After the dissolution of the trust the separate stockholders of each company voted their own stock and elected their board of directors, and the trustees did not vote that stock?—A. Well, I can speak for myself as an owner of stock in those various companies. The trustees did not vote my stock.

Q. They did not vote any of the stock which they still held as trustees and which was not distributed at that time?—A. I think that what the trustees did was to go right on with the liquidation that they were directed to go on with. I should say they had very little else to do.

Q. You testified, did you not, in the proceedings brought in the supreme court of Ohio, known as the contempt proceedings, in the

case of the State of Ohio against the Standard Oil Company, Mr. Rockefeller?—A. Well——

Mr. ROSENTHAL. The same objection there, of course.

Mr KELLOGG. Certainly, the same objection covers it.

Mr. ROSENTHAL. As to the other line of testimony concerning trust dissolution.

12649 Mr. KELLOGG. Certainly.

A. If I could know at what time and place, then I could identify the——

Q. On October 11, 1898, before Hon. Allen T. Brimsmead, special master, at the city of New York.—A. Up in a hotel I testified.

Q. Did you then and there testify as follows——

Mr. ROSENTHAL. Is it by question and answer?

Q. By question and answer, yes: "Q. Have the liquidated trustees opened up any new set of books or commenced any new accounts or kept their books any differently from the old trustees?—A. The dissolution of the trust marked the end of that bookkeeping, of course. The liquidation trustees made the beginning of a new condition of things. The duties of the liquidating trustees were of course different from the old trustees. Q. How different?—A. I don't know that I could from recollection state everything. Q. Well, do the best you can.—A. The old trustees had power, voted or did vote the stocks which were held by them after the dissolution of the trust, which dissolution was in the most perfect good faith."—A. Will you just read that part once more, if you please?

Q. "A. The old trustees had power, voted or did vote the stocks which were held by them after the dissolution of the trust, which dissolution was in the most perfect good faith, in obedience to what we were advised by the best counsel and our own judgment of the mandate of the court of Ohio. The old trustees voted all these shares.

The new trustees could not vote any of them and did not vote
12650 any of them, as appears in the record of the dissolution of the trust. They could not, nor did they ever, vote those shares after the dissolution of the trust, or after the brief period which was referred to, it may be a month or two or three, or more than four months, whatever that time was—after that time they never voted these shares. That would be one important difference."

Mr. MILBURN. Now those shares referred to there are the shares of the Standard Oil Company of Ohio, are they not?

Mr. KELLOGG. It does not so state, no.

Q. That is, after that dissolution did you so testify that the trustees did not vote the stocks?—A. I think——

Mr. ROSENTHAL. Are you asking him now whether he so testified?

Mr. KELLOGG. Yes.

Mr. ROSENTHAL. Suppose you divide your question up.

Q. Did you testify to that?—A. I did testify in this case, firstly; and what is the question?

Q. Did you testify to what I read you?—A. I can not from memory state what that testimony was.

Q. Was it true that after the dissolution neither the old trustees nor the trustees in liquidation voted the shares of stock previously held by the trustees?—A. I should judge, as I have been testifying now, that what was true was that these liquidating trustees did not. They were there to do a specific work which was indicated by that resolution, and the work that they could do was just that and nothing else, I should say.

12651 Mr. MILBURN. As I understand it, Mr. Kellogg, the trustees never voted the undistributed stock?

Mr. KELLOGG. That is as I understand it, and that is what I am trying to find out.

A. Well, that is my testimony on that occasion, is it not?

Q. Then the old trustees' duties ended when the new trustees were appointed by that resolution, didn't they?—A. I think there were no trustees excepting these liquidating trustees after the trust was dissolved.

Q. When each separate corporation whose stocks were so distributed or in part distributed——A. Yes.

Q. Was thereafter managed by the stockholders of that particular corporation, and their officers and directors elected, was it not?—A. The voting in those separate companies must have been by the owners of those stocks which had been so transferred, and they as the stockholders I suppose must have elected——

Mr. ROSENTHAL. Must have elected what?

Q. Go ahead, if you have anything to say.—A. They must have elected the officers of the companies.

12652 Q. Each one of the corporations whose stocks were held by the trustees at the time of the dissolution was engaged in some branch of the oil business?—A. Oh, yes.

Q. Many of them were refining oil?—A. Yes.

Q. Were some transporting oil?—A. Some were transporting, yes.

Q. Some were selling oil?—A. What do you mean by "some were selling oil"—some companies?

Q. Some of the companies, yes, were distributing or selling the products.—A. Certainly, the companies had to sell their oil.

Q. After the dissolution of the trust these corporations were competing with each other for business, were they?—A. Well, these corporations were being stimulated, each of them, in every way that would produce the minimum of cost in their manufacture, and in every way to do their business the best that could be done. These interests of these different companies were all owned by the same people.

Q. Several thousand people I believe you said?

Mr. MILBURN. He says by the same people.

A. By the same people.

Q. Several thousand of them you said I believe. Is that correct?—A. I think I did say that there were in this trust, before the distribution of the stocks, several thousand shareholders.

Q. Now, after——

Mr. MILBURN. Let the witness finish.

Mr. KELLOGG. I think he has finished his answer.

12653 Mr. MILBURN. You broke in. He said owned by the same people, and you broke in.

Mr. KELLOGG. Oh, he had finished his answer.

Mr. MILBURN. No; he had not.

Q. Well, have you anything further to say on that subject?—A. Before any dissolution of the trust, the people who were the shareholders in the trust owned all these different properties.

Q. Is that all?—A. Those who transferred their interests from the trust into these constituent companies preserved the same relation that they had sustained before in the ownership of these properties. Those who had not yet transferred, those who were from time to time transferring, yet preserved their same proportionate relation in all these properties.

Q. Is that all?—A. The same people, in the same relations, continued.

Q. All those companies that were previously in the trust. The Standard Oil of Ohio was one, wasn't it?—A. The Standard Oil Company of Ohio was one.

Q. The Solar Refining Company of Ohio was another, wasn't it?—A. I would know by this——[referring to book].

Mr. MILBURN. Another what?

Q. Another one of the companies in the trust.—A. I say I would know from this book.

Mr. MILBURN. What page?

Mr. KELLOGG. Page 62 of the bill of complaint.

Q. The Ohio Oil Company was another, wasn't it? Company was another, wasn't it?

Mr. ROSENTHAL. It was.

12654 A. Will you allow me to look at page 62?

Q. Yes.—A. I find the Ohio Oil Company.

Q. The Buckeye Pipe Line Company of Ohio was anc[illegible] it not?—A. I find the Buckeye Pipe Line Company of Ohio.

Q. The Eureka Pipe Line Company of Ohio was another, was it not?—A. I find it here, sir.

Q. Now, did you testify in this case I refer to in New York in 1897 or '8–'98, I think it was—on the subject of those various companies in the trust competing after the dissolution of the trust?

Mr. MILBURN. What testimony is this you are reading from?

Mr. KELLOGG. In the contempt proceeding.

Mr. ROSENTHAL. Call his attention to it by question and answer.

Q. Very well. Did you testify as follows: "Q. Does the defendant company" (the Standard Oil of Ohio) "come in competition with any of the original constituent companies in the State of Ohio?—Mr. Kline. You mean the companies in the trust? Mr. Monnett. Yes.—Mr. Kline. You mean since 1892, since the decree of the court in 1892? Mr. Monnett. Yes.—Witness. It sells its goods wherever its lists or wills. Q. I now repeat the question. Does it come in

competition with any of the constituent companies that were in the trust or that are now nourishing the trust certificates in the State of Ohio?—Mr. Kline. I say that question has been answered. Witness. It sells its goods in the open market wherever it pleases. Q. If it sells its goods in the open market wherever it pleases, it is in competition with all other sellers?—Mr. Kline. And that is
12655 what you mean by the answer? Witness. Certainly. Q. Does one of your constituent companies do business in competition with the Standard Oil Company of Ohio in Ohio?—A. We have no company but sells its goods wherever it wishes to sell them. Q. Do these constituent companies in Ohio at any one point compete with one another in prices?—A. They all compete with any other companies that are selling oil, our own companies or anybody else's, and choose the markets which are best for them. Q. Do I understand by that that the salesmen of the constituent companies in the trust compete with the other constituent companies in Ohio, and if so, what ones?—A. The constituent companies of the trust—the trust has no control over any of these companies. The trust has no control over any of these companies. Each of these companies manages its own business just the same as any corporation organized under the laws of the State, and is independent." Did you testify to that?

Mr. MILLER. Wait a moment.

Mr. ROSENTHAL. Give us a chance to object. We want to consider it first.

Mr. MILBURN. We will repeat the main objection, that it relates to a subject-matter which is not referred to or covered by the direct examination.

A. What is the question?

Q. Did you so testify?—A. I assume I must have testified if it appears there in the record.

Q. Did you also testify to this: "Q. And all report to one office in New York?—A. And all report to their own stockholders and directors and officers, each to its own."—A. Yes.

12656 Q. "Q. And also report to you at 26 Broadway, New York.—A. Also do not. Q. Neither directly nor indirectly?—A. No, sir. Q. None of their proceeds or receipts?—A. No, sir; each company has its own separate individuality. Q. And does not report to the liquidating trustees at 26 Broadway, New York, any of its income?—A. It reports to them whenever it gives to them. It reports to them only in that sense, that if they have any money to divide and place it in the hands of the trustees, they give it to them for that purpose. Q. That is, the original trust companies still report to that extent to 26 Broadway, New York, to the Standard Oil Company or to you as liquidating trustee? Mr. Kline. I object. The Commissioner. The objection is sustained." (That last question was ruled out.) "Q. Does the Standard Oil Company of Ohio as a refining company have a limited territory?—A. It has not. Q. Has it not in the last six years?—A. Not to my knowledge. Its field is the world. That is its mission, to light the whole world with the

cheapest and best." Did you testify to that?—A. If it is there I presume I did.

Q. Yes.—A. Yes, I presume I did.

Q. Then, each company after the dissolution was separate and independent in its management, was it?—A. After the dissolution, as I have already stated, the election of the different companies was by this stock, the majority of stock that was transferred, and the administration of its affairs, its particular affairs, and the matter of the sale of its products was made as before, I suppose. Of course in the matter of the distribution of these products I have not been concerned or interested or taken any part for long years; but let us take, for example, the Standard Oil Company of Ohio, of which
12657 I had been the president. As a practical question what would be done, I suppose, would be that the Standard Oil Company of Ohio would supply the trade which it could supply to the best advantage——

Q. Certainly.—A. And it would be just the thing that was the natural thing to do in that regard. These properties were all of the one ownership.

Q. You say all of the one ownership. You mean at the time of the dissolution, all of the two or three thousand stockholders owned stock in each one of these companies, do you?—A. I mean that these people who had not returned their certificates and taken their interests in the constituent companies yet held the original trust certificates, and that was their evidence of their interest in the business; that relation was not changed.

Q. Now, Mr. Rockefeller, there came a time when all of the stock of the subcompanies was distributed by the trustees, did there not?—A. I think substantially so, yes, sir.

Q. When did that time happen?

Mr. MILBURN. The same main objection is made to that, as before.

Q. When was that?—A. I could not state from memory. I was not attending to the business at all in those years, and had nothing whatever to do with it.

Q. You were one of the liquidating trustees, were you not?—A. Oh. I was, yes, sir.

Mr. ROSENTHAL. The records which we furnished you, and which are in this case, would show it item by item.

Q. Substantially all the stock of the subcompanies was
12658 distributed before the reorganization of the Standard Oil Company of New Jersey, to wit, say before the year 1900?—A. I have no knowledge about that at all, as to these dates of transfer. I really had nothing to do with the work of these liquidating trustees, probably hardly anything at all after this dissolution.

Q. But this testimony of yours was given in 1898, I believe?—A. I think in about 1898.

Q. October, 1898. And you there testified, as you say, that each one of these companies was competing with all the other companies in the trust?—A. Well, in reference to that, what you might say

to-day, each of these companies is doing its own business. I have already said to you this company in Ohio was selling its oil, doing its work of refining, and whatever its work was. It had its work to do and its business to transact. It would not follow from that that the proper conduct of the business of the Standard Oil Company of Ohio would lead it to undertake to do business in some place where it could not be done to the best advantage to the Standard Oil Company. The same good business sense would govern each of these administrators. They would well know where they could transact their business best.

Q. But that did not depend upon what any other company should do?—A. What do you mean by that, "What any other company should do?"

Q. That is, what the Standard Oil Company of Ohio would do did not depend upon what any of the other companies in the trust were doing, did it?—A. Do you not refer to the matter of
12659 the sale of the oil?

Q. Oh, doing all its business.—A. I supopse that as a matter of fact these companies, all being owned by the same people, would not be managing their separate businesses except in the way that would be the most productive for all the separate businesses.

Q. Is that what you meant when you said that each of these companies managed its own business just the same as any corporation organized under the laws of any State, and is independent, and that all compete with any other companies that are selling oil, our own companies, or anybody else's, and choose——A. Well, each company does continue to manage its own business to-day, as I understand it.

Q. You did not say continue. You said each company was managed as an independent. What did you mean by that?—A. I mean that if a company is organized under the laws of the State of Ohio, it is an independent corporation; and that if it is organized to conduct that business that is its function, that is what it is expected to do.

Q. Did you intend the authorities of Ohio to understand that after the dissolution all these companies were held together just exactly as they were before?

Mr. ROSENTHAL. Why, he expressly testifies they were not.

Mr. KELLOGG. Just wait a moment. Please answer that question.

A. I can not at this moment interpret just the testimony of that date. It has passed out of my mind. The idea, the theory, remained just the same. I do not see that there is any change.

12660 Q. Did you intend to convey to the authorities of Ohio when you so testified, that after the dissolution of that trust all of the constituent companies were held together in the same manner as they were before?

Mr. MILBURN. He does not say so.

Mr. KELLOGG. Let us see what he does say.

Mr. MILBURN. Well, you have read his testimony and now you ask him a question about it. He said that the stocks were distributed; he gave his testimony there.

Mr. KELLOGG. Please read the question, if the witness does not understand it.

(The question was read by the reporter.)

WITNESS. I can not from my recollection now recall just the situation and circumstance of that case at that time. The control of those different companies in each case was, as I have stated, by the stock holdings, and those companies were then, as now, in this common ownership.

Q. After the dissolution the ownership was not the same as before the dissolution, was it?—A. There was no change of interest of the parties concerned; that is, every man had just the precise proportion of all this business that he had had before, and so fast as these trust certificates were canceled, then, instead of having one certificate to represent that same precise interest, he had an interest in each one of those companies.

Q. He owned stock in each one of those companies, didn't he?—A. He owned stock, I suppose, just the same as I did in each

12661 one of those companies.

Q. You took some stock certificates in each company?—A. I suppose I did.

Q. After the complete dissolution, or substantially complete dissolution, there were several thousand stockholders in each separate company, were there not?—A. I did not say that, that there were several thousand stockholders in each of those constituent companies.

Q. Were there not?—A. When I referred to several thousand shareholders I referred to the holders of trust certificates which had not been surrendered and transferred.

Q. After they surrendered their trust certificates and took stock in the subcompanies, then there were several thousand stockholders in the subcompanies, weren't there?

Mr. ROSENTHAL. If they ever did that.

A. I do not think they did it.

Q. What did they do?—A. I think many of them, most of them, perhaps (as to the proportion I could not say), retained their interest for quite a long time after 1892. Some of us proceeded at once. We could not compel them to surrender their interests, and they did retain their interests for a considerable period of time, how long I do not know. They were not in the constituent companies; they were yet holding these trust certificates. As fast as they would yield them up, then they got the evidence of legal ownership in the companies, and with those evidences of legal ownership they got their interests in the constituent companies.

Q. All of their trust certificates were retired at some time,

12662 were they not, and they took certificates of stock in each one of the subcompanies?

Mr. ROSENTHAL. No.

Mr. KELLOGG. Certainly they were.

Mr. ROSENTHAL. No.

WITNESS. Just what they did, just how they did——

Mr. ROSENTHAL. I refer you to page 578 of volume 8 of the record in this case, which gives you stockholder by stockholder and share by share the information which you are now seeking.

Mr. KELLOGG. It does not give the name of a single stockholder, does it?

Mr. ROSENTHAL. Every one of them.

Mr. KELLOGG. Where is it? What page?

Mr. ROSENTHAL. Page 578, volume 8, furnished by us at your request over a year ago.

Q. Now, then, there did come a time when substantially all of these trust-certificate holders surrendered their stock and took certificates in the subcompanies, did there not?—A. Some time that must have been done, I suppose, but just when that time was I could not say. I was not there; I had nothing whatever to do with it.

(At this point a recess of five minutes was taken.)

Q. The trust certificates were not turned in to the Standard Oil Company of New Jersey, were they?—A. I think not.

Q. The Standard Oil Company of New Jersey acquired the stock of the various stockholders in all these corporations?—A. I think that was the process. I know that I brought my interest and received my stock in the Standard Oil Company of New Jersey for my interest in the constituent companies, if I mistake not.

12663 Mr. MILBURN. It is understood that our objection as to the subject-matter of the questions, as not referring to or being covered by the direct examination, applies to all events and transactions succeeding the dissolution of the trust.

Mr. ROSENTHAL. That is your understanding, is it not, Mr. Kellogg?

Mr. KELLOGG. Yes.

Q. Prior to 1899 I think you testified to the acquisition of a number of pipe lines?

Mr. ROSENTHAL. Prior to 1879 you mean?

Mr. KELLOGG. '79, yes.

A. I did.

Q. You did not construct the first pipe lines for the transportation of oil, did you?—A. I should think not.

Q. The subject of the transportation of oil by pipe lines was considered and established by other people in Pennsylvania?—A. I don't think that we constructed the first pipe.

Q. Quite a large number, that is comparatively for the period, of pipe lines had been constructed and were in operation in Pennsylvania before you or your associates took hold of the subject at all, were they not?—A. I should think that we did not begin to construct or to buy these pipe lines earlier than 1873 or '4, along in there.

Q. There were a good many pipe lines in operation in Pennsylvania before that time?—A. I presume there were undoubtedly gathering lines. You see that was a necessity of that situation, and it

was conceded early, of course. When the oil came out of the ground it either had to find its way to a shipping point or into a tank
12664 for storage. Those gathering lines must have been there a number of years, I should say, before that.

Q. What I mean is the subject of the transportation of oil in a pipe line was not originated by your company?—A. I do not think that we should claim that credit.

Q. You did not establish the first pipe line to the seaboard, did you?—A. I don't know that we did. The subject of the pipe lines generally was in the hands of other men who attended to that and the data respecting it I did not have and could not specifically refer to from my recollection after so long a time.

Q. Well, is it not true that the Tide Water Pipe Company constructed the first pipe line to the seaboard?—A. It would be easy to ascertain that. It may be entirely true.

Q. Isn't that your recollection?—A. I should say that it was so.

Q. Yes.—A. But I would not state that positively from my recollection.

Q. The question of the construction of a pipe line over a mountainous country to the seaboard in the early days was considered a very doubtful project, was it not?—A. I don't think that I would be a good expert on that subject.

Q. Well, it is your recollection that the Tide Water Pipe Company did construct the first line to the seaboard?—A. The Tide Water Pipe Line Company may have constructed the first line, and I should rather think that that was so, but I am not certain about that.
12665 Q. Well, following the construction of the Tide Water's line to the seaboard, your company extended its pipe lines which you had purchased also to the seaboard, did you not?—A. I do not remember the date that they constructed and I do not remember the date that our pipe people began to construct: I probably knew, undoubtedly knew, at the time.

Q. Did the Standard Oil Company undertake to get control of the Tide Water pipe line?—A. I do not recall about that. I had nothing whatever to do with any such endeavor.

Q. Did you know of it at the time?—A. I do not now recall about that.

Q. Do you recall an interview with Mr. Lombard on that subject?—A. An interview between Mr. Lombard and me?

Q. Yes.—A. I do not seem to recall an interview with Mr. Lombard. I should think not.

Q. Well, the Standard Oil Company or some of the Standard interests now owns about 31 per cent of the Tide Water Pipe Line. does it not?

Mr. MILBURN. I want to repeat that objection as to all questions pertaining to the pipe lines and the pipe-line conditions after 1879.

(The question was read by the reporter.)

Mr. ROSENTHAL. The statements which we furnished you show that to be the exact percentage.

Q. I want to call it to the attention of Mr. Rockefeller.—A. I do not know anything about the percentage.

Q. It appears that that interest was acquired a great many years ago. Have you any recollection of the subject of acquiring an interest in the Tide Water Line?—A. I do not recall any of the particulars of that acquirement. I do not say that I may not have been familiar generally with the endeavor, if made at the time.

Q. Did you know Mr. Lombard?—A. Mr. Lombard of the firm of Lombard & Ayers?

Q. Yes.—A. I used to know Mr. Lombard in the sixties, and perhaps the early seventies.

12666 Q. Did you have a conference with Mr. Lombard over the subject of acquiring Lombard & Ayres and the pipe lines connected with his concern?—A. I do not recall ever having any interview with him upon that subject.

Q. Did you then offer Mr. Lombard $1,000,000 for the plant of Lombard & Ayres, which he declined?—A. I have not the least recollection of that.

Q. Did you then make an offer of $5,000,000 for all of the interests, including the pipe lines?—A. I do not believe I ever did that. I have no recollection of it.

Q. Did you then purchase some refineries which had stock in the Tidewater Pipe Line, or which were expecting to get their supplies from that company?—A. I have no recollection of that. Are those refineries some in reference to which I have testified?

Q. To refresh your memory, was this conversation with Mr. Lombard in the summer of 1882?

Mr. ROSENTHAL. He says he has no recollection of such a conversation.

Q. You have no recollection of a conversation?—A. I do not recall any such conversation.

Q. Did you know Mr. H. L. Taylor?—A. I did.

Q. Did he have some interests with Lombard & Ayres in those days?—A. Of course I could not tell about that. Mr. Taylor was a producer, a large producer. What Mr. Taylor's interests might have been and with whom he might have been interested I could not tell.

12667 Q. Did you purchase, about that time, the refineries of Bush, Denslow & Company?—A. I do not remember the time of the purchase. I had nothing to do with the purchase. We did purchase refineries, in whole or in part, from such a firm. Such negotiations, however, I do not recall, and I should say I never had any part in.

Q. Do you remember Gregory, McGoy & King?—A. I remember Mr. Gregory, and I remember the names of McGoy and King. I knew Mr. Gregory and I suppose that I have seen either one or both of the McGoy & King firm.

Q. A. S. Jenney & Sons?—A. What is the question?

Q. Did you know A. S. Jenney & Sons at that time?—A. I believe that I did not.

Q. Wilson & Anderson?—A. I do not recall that I knew Wilson & Anderson. The date I have not there. Presumably these transactions, if made, were made with people who were in the active relation in the business at the time.

Q. Weren't you active in the business between 1879 and 1882?—A. I was not active in the matter of certain lines of work which in the very beginning of the business I did give more attention to. In other words, other men came in, younger men, who attended to part of the work which fell to my lot in the beginning of the enterprise.

Q. You knew Mr. H. L. Taylor, you said?—A. I did.

Q. Along about 1880 or 1882?—A. I knew Mr. Taylor, but in what years I knew him I could not positively state. I knew Mr. Taylor.

Q. Did you know Mr. P. S. McFarland?—A. I do not recall that I knew Mr. McFarland. Could you tell me Mr. McFarland's

12668 connection and association in business?

Q. He was a stockholder in the Tide Water Pipe Company (Limited).—A. My belief is that I did not know Mr. McFarland.

Q. John L. McKinney?—A. If it is Mr. John L. McKinney, of Titusville——

Q. Yes.—A. I have known Mr. John L. McKinney, of Titusville, for some time.

Q. Knew him in 1882, didn't you?—A. Whether I knew him as early as 1882 I could not state.

Q. John Satterfield?—A. John Satterfield I knew.

Q. Did you know Mr. John Pitcarey?—A. No, it is not Pitcarey; it is Pitcairn, the same as the Pitcairn in the Pennsylvania road.

Q. I mean John Pitcairn.—A. I knew John Pitcairn.

Q. Did you know D. B. Stewart?—A. Stewart? I do not recall Stewart. I may have known Stewart.

Q. Now, Mr. Rockefeller, these individuals had stock in the Tide Water Pipe Company (Limited), which stock was afterward transferred to various parties, and finally is now in the hands of some of the Standard Oil companies. Did you know of the transaction by which that stock was procured?—A. I do not recall about the transactions.

12669 Q. Did you at the time?—A. If the transactions were made, I could not say whether I was familiar with them or not. I would not necessarily know about any such transactions. I might have known.

Q. Did you know at the time that these men undertook to get control of the Tidewater Pipe Company and turn it over to the Standard Oil?—A. I could not say that I did.

Q. Have you any recollection of ever hearing at the time that that was done?—A. I could not state about that. If such negotiations were going on, I may have known at the time, Mr. Kellogg.

Q. They were rather forcible negotiations, by which they undertook to take possession of the company, and there was litigation over it which went to the courts in Pennsylvania. Do you recollect that?—A. No; I do not remember about that.

Q. Did you ever know that any of your companies owned any interest in the Tide Water Pipe Company?—A. Oh, yes; I think I have.

Q. When did you find it out?—A. I could not tell when such interest was acquired, if it was acquired, and I could not tell when I found it out. I did not participate at all in the matter of acquiring those interests, and my mind is not charged with it. I could not tell that.

12670 Q. What was the object of procuring those interests?—A. I suppose that those gentlemen who attended to it could answer that better than I. It was along a line of business that I was not giving my personal attention to as others were.

Q. Then you do not know why the attempt was made to get possession of the Tide Water Pipe Company?—A. I do not say anything about that. I do not recall that. Presumably it was supposed to be a good investment in the pipe business.

Q. Do you think the Standard Oil Company bought 31 per cent of the stock merely as an investment?—A. I do not know why they should not invest 31 per cent, or more or less, in another pipe line if it was in the line of their regular undertaking in providing pipes.

Q. Do you remember a great cut in rates that was made by the railroads about the time the Tide Water projected its line to the seacoast?—A. I was not following the freight question. I might have known of it at the time. I do not particularly recall about it now.

Q. Do you know of the United States Pipe Line Company?—A. I have heard of a United States Pipe Line Company some time.

Q. Did it about between 1883 and 1893 build a pipe line from Pennsylvania to the seaboard at Philadelphia?—A. That I do not know.

Q. Did the Standard Oil Company, or any of its companies, purchase $393,000, par value, of the stock of that company?—A. That I could not tell.

12671 Q. Did you know Berne-Scrymser & Company?—A. I do not think that I did.

Q. Did you know Mr. Cord Meyer?—A. I did not. I wonder if he was a broker. I knew a Meyer, who is now dead, who was a broker—perhaps not Meyer, but Meyers. I knew a Meyers who was a broker. I do not recall knowing that gentleman.

Q. Did you ever know of the Standard's companies, any of them, acquiring any stock in that company?—A. I presume I did, if they did acquire. Yes, I presume I did.

Q. That was a competing company to your company, was it not?—A. What company do you refer to now?

Q. The United States Pipe Line.—A. Oh, I do not know anything about that. I do not recall.

Q. You don't know anything about it?—A. I was thinking you were calling me back to this Tide Water Pipe Line.

Q. No; the United States.—A. Oh, I do not recall about the United States Pipe Line.

Q. You have no recollection of ever knowing anything about it?—A. I do not recall anything about that. I might have known about it at the time, but——

Q. Do you know where the pipe line runs?—A. I do not think I do.

Q. Isn't it an important competitor of the Standard Oil's lines running from Pennsylvania to Philadelphia?—A. If you could tell me where it runs I could answer better.

Q. You do not know anything about it?—A. I could not tell you where the United—what do you call the pipe line, sir?

Q. The United States Pipe Line Company.—A. I could not tell you where it begins and I could not tell you where it ends, from my own knowledge.

12672 Q. And you never did know anything about it?—A. I do not recall that I ever knew where that pipe line began or ended. But it is altogether likely that in the times I knew generally there was such a pipe line.

Q. Now, you were telling about the improvements made by the Standard Oil Company. Did your company build the first refineries for refining oil?—A. I do not think we did.

Q. Did you build and operate the first tank steamers for carrying oil?—A. We have a great many tank steamers. Whether we built the ones that were first built I do not know. If Mr. Warden were here he could tell us all about that.

Q. Did you build the first tank cars?—A. I do not think we did. I do not know. We built them early. Somebody might have built cars before we did. I could not remember about that definitely.

Q. They were in use for the transportation of oil many years before you bought them, weren't they?—A. They may have been in use before. The original ones were not what we call tank cars now.

Q. You spent considerable time the other day telling us about the improvement in barrels or the manufacturing of barrels which the Standard Oil Company originated. Did you build the first factories for manufacturing barrels by machinery?—A. I should say, so far at least as Cleveland is concerned, that we were the first or one of the very first of the refineries to build a barrel factory. That would be my recollection.

Q. But barrel factories were in existence in Pennsylvania long before you bought them, were they not?

Mr. ROSENTHAL. Built them.

12673 A. I do not know the names of the barrel factories in Pennsylvania which were there before; that is, for the manufacture of these large oil casks. There may have been manufactories there for making other barrels—flour barrels or others. I did not know of such.

Q. Didn't you buy up some factories already established to manufacture barrels?—A. I do not now remember about our buying the

barrel factories. We might have bought in connection with some refinery, but I do not recall that.

Q. The principal innovation which you established, then, was to purchase the pipes, refineries, steamers, and other improvements that other people had started? Is that true?—A. Oh, I should think not; I should think not. I do not think I should worthily represent my associates to make such an acknowledgment as that.

Q. You commenced your acquisition of pipe lines by acquiring the American Transfer Company, didn't you?—A. I should say that that was one of the very first.

Q. And then the United States Pipe Lines?

Mr. ROSENTHAL. No.

M. KELLOGG. The United Pipe Line, I mean.

WITNESS. The United States Pipe Line?

Mr. KELLOGG. United Pipe Lines, I should have said.

Mr. ROSENTHAL. No. There were some small lines which became the United Pipe Lines.

WITNESS. Whether there were other little lines here and there, or interests in little lines, acquired after we bought the American Transfer Line and before we bought the United
12674 Pipe Lines, I do not just recall. I should say very small interest, if any interest, until we acquired that in the United Pipe Lines.

Q. Then you purchased the Columbia Conduit Lines, or the stock of that company?—A. We purchased the Columbia Conduit Lines.

(An adjournment was here taken until the morning of Tuesday, November 24, 1908, at 10.30 o'clock.)

12675 ROOM 508, CUSTOM-HOUSE, NEW YORK CITY,
Tuesday, November 24, 1908—10.30 a. m.

The hearing was resumed before the special examiner, Hon. Franklin Ferriss, at the above time and place.

Present on behalf of the petitioner, Mr. Frank B. Kellogg, Mr. Charles B. Morrison, Mr. J. Harwood Graves. On behalf of the defendants, Mr. John G. Milburn, Mr. Moritz Rosenthal, Mr. John S. Miller, Mr. F. L. Crawford, Mr. Walter F. Taylor, Mr. Douglas Campbell, Mr. W. Cleveland Runyon.

JOHN D. ROCKEFELLER recalled and his cross-examination resumed, as follows:

By Mr. KELLOGG:

Q. I notice by an exhibit furnished the Government by the Standard Oil Company, what purports to be a true list of the original issues of stock by the Standard Oil Company in New Jersey, in exchange for stocks of these subcompanies during the year 1899 and subsequent years, mostly in 1899. And in that list there are large blocks of stock first issued in your name, which I assume was perhaps for convenience, but which I would like you to explain. For instance, of the various issues in blocks of 10,000, 50,000, and other

amounts, there were 442,797 shares out of a total of 983,383 shares. I assume that you did not personally own all those shares originally issued in your name?

Mr. MILBURN. Of course we make the same objection to
12676 this as was made formerly to testimony relating to matters not covered by the direct examination, and it is understood that that objection applies to all questions along the same line.

Mr. KELLOGG. Yes.

A. I did not own anything like as much as 442,000 shares of the stock of the Standard Oil Company of New Jersey; no, sir.

Q. Did you own the 256,854 shares which were issued in your name first on that list?—A. Presumably I did.

Q. The others were taken in your name, were they, to be distributed to the true owners who had turned in stock in the subcompanies?—A. If a holder of a trust certificate found an owner or a holder of a share in the Standard Oil Company of New Jersey, and if holders of small fractional shares could find persons who had shares in the Standard Oil Company of New Jersey, it was a matter of help to those people, instead of taking these fractional interests in all these different companies; and I should say that whether in a case of my holding or a case of anyone else, if the man who had but a very small holding of trust certificates and wanted to save himself all this question of the fractional shares which would come, could find one who did at the same time own a like amount in the stock of the Standard Oil Company, that such exchanges were made, it may be, to a greater or less extent between such individuals.

Q. Then, these large blocks of stock, with the exception of the first amount of 256,854 shares, were simply issued in your name for convenience, to be distributed to the true owners?—A. Well, that I could not say. I see here a long list, and I have not seen any
12677 such list before, and I had nothing whatever to do with the affairs of the office in those years, and I can not answer about all this list of shares.

Q. Well, generally speaking, there was a large number of shareholders in these twenty subcompanies whose stock had been distributed. That is true, is it not?—A. There were a large number of shareholders who held the trust certificates. The number of the shareholders in these companies to which you now refer I should say was comparatively few.

Q. The people who held trust certificates eventually gave up the trust certificates and took stock in the subcompanies and then turned their stock into the Standard of New Jersey, didn't they?—A. Their process was just the same as mine.

Q. That is it exactly.—A. Each man having a trust certificate got for it a paper from the liquidating trustees which enabled him to go to the different companies and get from each company a share representing his precise proportion in each of the companies. When he had obtained such shares, then he could exchange the same and get

the equivalent representation in the stock of the Standard Oil Company of New Jersey.

Q. That is it exactly; and all of those certificate holders did at some period before they turned their stock in to the Standard of New Jersey convert it into stock of the subcompanies?—A. That had to be done. I know of no other process by which they could convert. I think that was just the process I went through, and I suppose that every shareholder had to do just the same thing.

Q. How many were there of those stockholders—two or
12678 three thousand, as you said yesterday?—A. I don't know from my memory how many of those stockholders there were.

Q. There were as many as there were separate trust certificate holders, were there not?

Mr. ROSENTHAL. When?

WITNESS. I think that would be a fair conclusion.

Q. How many were there of those before they converted their stock into the Standard of New Jersey?—A. If I knew, I would only be too happy to say, but I really do not know.

Q. That is exactly what the stock books would show.—A. I should think if the stock books were properly kept that they should show every transaction.

Q. Now, isn't it a fact that the trust certificates which were in existence in 1897, '8 and '9 were simply turned into your hands as attorney in fact, and you turned the trust certificates over to the Standard of New Jersey and got that stock?—A. I don't think so.

Q. You don't think so?—A. I don't think so.

Q. Well, did they put their trust certificates in your hands as attorney, and you got the assignments of legal title?—A. No; I don't think so.

Mr. ROSENTHAL. I don't think you got Mr. Kellogg's last question clearly.

A. I beg pardon. Perhaps I have not got the last question correctly.

Mr. ROSENTHAL. The very last one.

12679 (The official reporter read the question as follows: "Q. Well, did they put their trust certificates in your hands as attorney, and you got the assignments of legal title?")

A. I did not have anything to do with that. That is, I did not act as an attorney for these people.

Q. Well, in any event, this large amount of stock that was in your name, originally issued to you, with the exception of those shares which you say you owned, did not belong to you, and were distributed to the stockholders to whom they did belong?—A. The stock first issued here belonged to me.

Q. Yes, I understood that, and the balance was issued to you for convenience.—A. And the balance is a list that I had not seen, and I can't answer from any knowledge, to speak further definitely about this list that I see here.

Q. Now Mr. Flagler seems to have had issued in his name on June 30, 1899, 28,000 shares; then subsequently issued to him 79,430 shares in various lots which added up that amount?—A. Yes.

Q. Mr. Flagler did not own personally any such amount of stock, did he?—A. I do not remember how much Mr. Flagler did own. I was not familiar with that.

Q. He did not own over a hundred thousand shares?—A. I think not.

12680 Q. He owned in the neighborhood of 28,000 shares, didn't he?—A. I could not state Mr. Flagler's holdings at that time.

Q. Did he also get stock in his name for convenience, which was distributed to various parties?—A. What Mr. Flagler might have done I could not say.

Q. Mr. Rockefeller, there is one matter that I did not take up the other day. Do you know Scofield, Shurmer & Teagle?—A. I did; yes, sir. Do you now refer to the purchase we made at Cleveland?

Q. No, I refer to the firm of Scofield, Shurmer & Teagle which was in existence in 1876.—A. I did.

Q. They had a refinery, had they not, at Cleveland?—A. They had.

Q. Did you personally enter into a contract with them July 20, 1876, in relation to the running of their refinery; that is, I mean you personally, did you personally negotiate the contract for the Standard Oil of Ohio?—A. I do not recall that I had any negotiation with them respecting it, though I may have had such negotiation.

Q. Did you not on behalf of the Standard Oil of Ohio negotiate a contract with Scofield, Shurmer & Teagle in July, 1876, whereby for a period of ten years from July 20, 1876, they agreed with the Standard Oil of Ohio to operate the business of Scofield, Shurmer & Teagle, devote their time and personal attention to it; that they would not use over 85,000 barrels of crude in any year, 42,500 in each six months; that they should be guaranteed a profit of $35,000 a year; that the balance of the profit up to $70,000 should be-

12681 long to the Standard Oil Company of Ohio and the balance above that divided between you?—A. I can't tell you whether I negotiated that transaction.

Q. Do you remember it?—A. I recall that there was something of the kind.

Q. An agreement limiting the capacity of their refinery?—A. An agreement——

Q. I mean limiting the business of their refinery.—A. An agreement that had reference probably to an amount of business that we should thus do together.

Q. You did not own their refinery?—A. I think they owned the refinery, but——

Q. You did not buy that refinery at that time?—A. I think we did not.

Q. You entered into a contract with them, limiting the capacity or limiting the amount they should manufacture?—A. We entered into a contract with them having different features.

Q. Did the contract provide that they should not use over 85,000 barrels per annum for ten years in the manufacture of petroleum in their refinery?—A. The contract may have so provided.

Q. Is that your recollection?—A. I should say that something like that amount was understood to be what would be a fair amount for them to do.

Q. Was that very much less than their capacity?—A. I could not state what their capacity then was.

Q. Well, in 1880 did the Standard Oil Company of Ohio bring a suit against Scofield, Shurmer & Teagle in the court of
12682 common pleas of Cuyahoga County, State of Ohio, to restrain them from continuing to manufacture more than 85,000 barrels of crude oil, and to restrain them from having any interest in a refinery which was being built in Buffalo?—A. I think we had litigation in connection with this contract.

Q. Was the litigation to restrain them from exceeding that capacity and from having any interest or obtaining any interest in a refinery to be constructed at Buffalo, or being constructed at Buffalo, New York?—A. I have no recollection about the litigation being in reference to restraining them from the construction of a refinery in Buffalo.

Q. What is your recollection about the other point?—A. I think I have already stated.

Q. That you remember such a litigation?—A. That there was some litigation with this firm on the part of the Standard Oil Company of Ohio.

Q. What was it about, Mr. Rockefeller?—A. I think, as nearly as my memory serves me, that these gentlemen had failed to comply with the conditions of that agreement, whatever it was.

Q. What were the conditions?—A. In this, as in many other affairs of business thirty or forty years ago, it is quite an impossible thing for me to remember every detail.

Q. But did you make a contract with them limiting the capacity of their refinery?

12683 Mr. MILBURN. You have asked that question three times, and he has answered it three times already.

Mr. KELLOGG. He has not answered it squarely, that they made a contract limiting the output of that refinery.

Mr. MILBURN. That is your phraseology. He says he made a contract with them whereby they were to refine what was thought to be a fair amount. Now that is his method—that is his phraseology.

Q. Is that your understanding of it?—A. My understanding of the contract was that they were to have a fair amount of the business that would be done there at Cleveland in the refining of the oil, and that that amount was recognized to be by all parties as reasonable, whatever the amount was, if the precise amount was indicated in the agreement.

Q. Was the suit to prevent them from exceeding the amount they agreed to?—A. I could not tell. I had nothing to do with the prosecution of that suit personally, further than the general knowledge. I could not say all that was covered in that prosecution.

Q. Did you not personally make an affidavit in that case in order to obtain a preliminary injunction restraining Scofield, Shurmer & Teagle from exceeding the limit they had agreed to as an output of their refinery, and restrain them from constructing or having an interest in a refinery to be constructed or being constructed in Buffalo?—A. Now, I have no recollection about any affidavit
12684 having reference to the refinery in Buffalo. If I signed an affidavit as the president of the Standard Oil Company of Ohio, if it had a complaint against this concern of Scofield, Shurmer & Teagle, I might have. I would have been the proper official to have signed an affidavit in such complaint.

Q. Did the defendants set up in their answer, or generally claim in that case, that the agreement was utterly void and of no effect as being by its terms in restraint of trade and against public policy, and did they charge and claim that the Standard Oil Company of Ohio was trying to establish a monopoly in the manufacture of refined oil in the State of Ohio and in the United States, for the purpose of monopolizing the trade in refined oil and enhancing the price thereof and maintaining unnaturally high prices, and that this agreement was a part of said conspiracy?—A. I could not state from my recollection, but I assume that they probably did not fail in such a paper to put in everything they could think of, or their attorneys for them, but I could not state they did put in.

Q. Do you remember who the attorney was of Scofield, Shurmer & Teagle?—A. I could not at this moment say who their Cleveland counsel was.

Q. Wasn't it Virgil P. Kline, who has since for many years been the attorney of the Standard Oil there—Henderson & Kline?—A. That I do not know. If it was Mr. Kline, they had a very good man to represent them.

Q. Were your attorneys, or the attorneys of the Standard Oil, Mr. M. R. Keith and Mr. R. R. Ranney?

Mr. MILBURN. R. P. Ranney.

12685 A. Judge Ranney was. If we had litigation at that time it would have been, on such matters, Myron Keith and Judge Rufus P. Ranney.

Q. Now, has not this litigation been called to your attention in late years?—A. Yes, sir; I think it has.

Q. Or did you at the time get copies of the affidavits and look them over?—A. I don't know that I have looked them over. I have been made generally acquainted with that question.

Q. Have you got copies of the pleadings and of the affidavits in that case?—A. Have I?

Q. Yes; or in your office.

Mr. ROSENTHAL. No; we have not.

Mr. MILBURN. I have never seen them.

A. No. I perhaps stated to you that I took no part in this affair further than if I signed, as the president of this company, a depo-

sition which was drawn, presumably by Mr. Keith, who was familiar with all these legal propositions.

Q. Did you have a similar contract with the Pioneer Oil Company, of Cleveland, limiting the output of their refinery for a period of ten years or thereabouts?—A. There may have been a contract with the Pioneer Oil Company. As to just what that contract was I could not state from my recollection.

Q. Was their contract also dated July 20, and running for ten years?—A. I could not tell the date of their contract any
12686 more than I could tell the date of the other contract to which you have referred.

Q. Did you in that affidavit state in substance: "Affiant avers that it has made but one other contract with other persons like the one made with the defendants, and that that was a contract made at the same date—namely, July 20, 1876—with the Pioneer Oil Company of the city of Cleveland, of which the defendants had full knowledge. Affiant further says that he was present and participated in the negotiations which resulted in the formation of the contract with these defendants."—A. What, then, is the question?

Q. Did you make an affidavit to that effect in this case, or in substance that?—A. I do not recall that feature. I am now referring to a feature which pertains to this second company to which you have referred.

Q. Yes, sir.—A. I do not recall anything about that in an affidavit.

Q. Did you in that affidavit also state: "Affiant says the Standard Oil Company owns and operates its refineries at Cleveland, Ohio, and its refinery at Bayonne, New Jersey; that it has no other refineries nor any interest in any other refineries, nor does the Standard Oil Company operate or control in the United States any other refineries of crude petroleum."—A. I could not state from my memory what was in that affidavit. I could not state whether that which you have read to me was in that affidavit, from my recollection.

Q. You say you have examined these papers?—A. I say that I have had my attention called to this paper.

Q. Can you state whether you substantially made that statement?—A. I can not state that from my recollection.

12687 Q. Have you examined the affidavit that you made at the time?—A. I say that I have had my attention called, but such examination has been of a character to understand the general trend, rather than to repeat the words of a contract.

Q. Was that true, that the Standard Oil Company at that time, in 1880, had no other refinery, or any interest in any other refineries, nor did it operate or control any other refineries in the United States?—A. If I so testified at that time, that was the belief I had at that time.

Q. Did you in that same affidavit state: "Affiant says that it is not true that the plaintiff got control of the refineries of the firm of Logan Bros., of Philadelphia, the Octave Oil Company, Easterly & Davis, and the Bennett & Warner Company, of Titusville, Pennsyl-

vania, R. S. Waring and the Citizens Oil Works, of Pittsburg, or either of them?"—A. If that was in that affidavit and I testified to it, it was because I understood that to be the status.

Q. I thought I understood you the other day to testify that you purchased the Bennett & Warner refineries.

Mr. MILBURN. What do you mean by "you?"

Mr. KELLOGG. The Standard Oil, for the purpose of its stockholders.

Mr. MILBURN. The Standard Oil of Ohio.

Mr. ROSENTHAL. No; that is not the testimony.

Mr. KELLOGG. This the Standard Oil of Ohio we are talking about.

12688 Mr. MILBURN. Not the Standard Oil.

Mr. ROSENTHAL. That was not his testimony the other day.

Mr. KELLOGG. If it was not, then I did not understand it.

Mr. ROSENTHAL. Well, you probably did not.

Q. Now, did you make that statement?

Mr. ROSENTHAL. What statement, Mr. Kellogg?

Mr. KELLOGG. I read it to the witness a moment ago in this affidavit.

WITNESS. Would you read the particular feature of the statement to which you called my attention?

Q. I did.—A. May I trouble you, if you will, to kindly read it again?

Mr. KELLOGG. Mr. Reporter, please read it again.

(The reporter then read the question as follows:)

Q. Now, did you make that statement?—A. I could not state from my memory.

Q. Was that statement true?—A. I say I could not state from my memory just what I did say in that affidavit.

12689 Q. Did you also state in that affidavit "that the said Standard Oil Company is not now, nor has it ever been, a stockholder in any railroad, pipe line, or other common carrier, for the transportation of oil?"—A. That I do not recall.

Q. Well, was that true that it had not been at that time, in 1880?—A. The Sandard Oil Company of Ohio?

Q. Yes.—A. Been a stockholder in a railroad at that time?

Q. "Pipe line, or other common carrier for the transportation of oil."—A. In a pipe line or other common carrier? I do not recall that the Standard Oil Company had been a stockholder in any of those interests to which you refer. I am now referring to the Standard Oil Company of Ohio, a company organized under the laws of the State of Ohio.

Q. Then, it is a fact, is it not, that at that time you were intending by that affidavit to give the impression that this large number of refining companies which you have been testifying your interests acquired interests in, were not directly or indirectly controlled by the Standard Oil?—A. I think that I was giving the impression of just the status at that time in respect to the properties referred to.

Q. Did you give anywhere in that affidavit the status of all these refineries which your interests had acquired and the stock of which was in the Standard Oil of Ohio for the benefit of its stockholders?

Mr. MILBURN. It was not in the Standard Oil Company of Ohio.

A. If it was in the Standard Oil Company I did not know it, and have never known it.

12690 Q. All right. Did you state in that affidavit the status of all that ownership which was in the hands of any parties for the benefit of the stockholders of the Standard Oil of Ohio?—A. I do not recall a statement in that deposition in regard to all these companies referred to.

Q. No; there was no statement in it at all, was there?—A. I can not say that. I do not recall a statement which referred to all these companies to which you have now made reference.

Q. Have you looked over that affidavit, or what purports to be a copy of that affidavit, lately?—A. I have had my attention called to that affidavit.

Q. Was the copy that you looked over a correct copy of the affidavit?—A. I did not say that I had looked over it myself.

Q. That suit was shortly after the trust contract which you put in evidence here, made in 1879, was it not?—A. I do not remember the date of that litigation.

Q. That litigation was in 1880, and this contract seems to have been entered into somewhere about the 8th of April, 1879.—A. Do you say that the litigation——

Q. Was pending in 1880.

Mr. MILBURN. If that was a fact, then it was after 1879.

Q. What is your recollection of it?

Mr. ROSENTHAL. Of what?

Q. Of the time that litigation was pending?—A. I do not know when the litigation was begun; I do not know how long it was pending.

12691 Q. Did you anywhere in that suit make known this trust agreement by which your interests or your stockholders controlled, through stock ownership, a large number of refineries in the United States?—A. I do not recall I did make that known in that deposition.

Q. Did you make that known to anyone at that time?

Mr. ROSENTHAL. Whom do you mean by "anyone"?

Mr. KELLOGG. Just what I say.

A. I could not state whether I made it known or did not make it known.

Q. As a matter of fact, was not that ownership kept secret?

Mr. MILBURN. A good many people knew the secret.

Mr. KELLOGG. They guessed it.

Mr. MILBURN. No; look at the signatures. There are how many parties to it?

Mr. KELLOGG. One moment. Please answer the question, if you will.

A. The extent to which publicity was given to that paper, the trust agreement, to which you refer, it would be impossible for me to say at this time. It was signed by quite a number of people. I could not state who of those people spoke about it or who did not, I am sure.

Q. Is it not a fact that the ownership of stock in these various companies, scattered through Pennsylvania, New York, and other places, appearing in this trust agreement of 1879 was purposely kept from the public, and that you people denied that you were combining the interests in those refineries with the Standard Oil at that time?—A. I have no recollection of anything of that kind appearing in that deposition.

12692 Q. That is not the question I asked you. I asked you if this was not purposely kept secret.—A. I could not state that this was kept secret at all. On the other hand, I think that this was known to many people aside from those who signed the paper.

Q. Who?—A. Who I could not state.

Q. Why didn't you state those facts in this affidavit about these combination' of interests?

Mr. ROSENTHAL. That was not an issue in that case.

Mr. KELLOGG. It was.

Mr. ROSENTHAL. Not under the pleadings, as I have examined them.

Mr. KELLOGG. Exactly an issue in that case.

WITNESS. I did not draw the deposition. I was not the attorney in the case. I do not see how I could answer that question.

Q. You furnished the facts for the affidavit, did you not?—A. Presumably not.

Q. You would not be apt to swear to an affidavit that you did not go over carefully and see whether it was true or not?—A. I should say not, by any means.

Q. Is it not a fact that Mr. Archbold and Mr. Flagler and others during those years, 1875, '6, '7, '8, and '9, stated publicly—some of them swore to it—that there was no combination between the Standard Oil and these various companies, no control over them by the Standard Oil or the Standard Oil interests?—A. I could not state from my recollection what these different gentlemen may have testified to at different times.

12693 Q. What percentage of the refining business did these various companies, the stock owners of which are set out here, do, including the Standard Oil?

Mr. MILBURN. When? In 1879?

Mr. KELLOGG. In 1879 and 1880.

Mr. ROSENTHAL. We are going to show that specifically, Mr. Kellogg, by certain affidavits.

Mr. KELLOGG. I want Mr. Rockefeller to show it.

Mr. ROSENTHAL. We are going to put in the exhibits when Mr. Archbold takes the stand, showing year by year.

WITNESS. I would be very pleased if I could answer that question, but I am entirely unable to do so.

Q. Was it 75 or 80 or 90 per cent?—A. It would be only a guess on my part as to what that percentage was at that time.

Q. What percentage was it, as near as you can recollect?—A. I could not recollect what percentage it was.

Q. Did you make this statement in that affidavit: "That there are in Ohio, West Virginia, Pennsylvania, New York, and New Jersey a large number of refineries of crude petroleum that are not owned or controlled by said Standard Oil Company, and in which the Standard Oil Company has no interest whatever, directly or indirectly, which are now and for years past have been refining crude petroleum and selling it in the open market; that the amount of crude petroleum refined by the Standard Oil Company does not exceed 33 per cent of the total amount refined in the United States"?—A. I do not recall that in my deposition.

Q. Did you make this statement: "That it is not true that the Standard Oil Company ever had, or that it now has, any
12694 contract with any lines of transportation in which it was stipulated that it should have a lower rate of freight than other shippers undertaking the same obligation and furnishing equal terminal facilities; that in all the contracts ever had with the railroads, the railroad companies have reserved the right to charge others the same rate of freight as that paid by the Standard Oil Company"?—A. I do not recall that, from memory.

Q. Well, was it true that in all contracts the railroads reserved the right to charge others the same rate of freight as paid by the Standard Oil?—A. I can not recall the features of those railroad contracts in those early days.

Q. Did you not testify specifically to one that was entered into between the Standard Oil Company and the Pennsylvania Railroad, in which it was provided that no other shipper of oil "by your line shall pay less than the rate fixed for us before such commission is deducted?"

Mr. MILBURN. Now go on; do not stop in the middle of a sentence.

Q. "And no commission shall be allowed any other shipper unless he shall guarantee and furnish you such quantity of oil for shipment as will, after deduction of the commission allowed him, realize to you the same amount of profit you realize from our trade." Did you not personally testify to that contract the other day in answer to Mr. Milburn?—A. I may have done so.

Q. Then, do you think in the light of that, that this statement is strictly accurate, to wit, "that in all the contracts ever had
12695 with the railroads, the railroad companies have reserved the right to charge others the same rate of freight as that paid by the Standard Oil Company?" Was not that an error?—A. Well, I do not recall that which you have read as in my testimony.

Q. Do you remember Mr. Flagler and Mr. O. H. Payne making affidavits in that case?—A. In what case?

Q. This Cleveland case, the Standard Oil Company vs. William C. Scofield.—A. No, I do not recall depositions by Mr. Flagler and Mr. O. H. Payne.

Q. You do not recall it?—A. No, I do not.

Q. Do you recall that Mr. Payne said in his affidavit that it was not true, as stated by John Teagle, that the Standard Oil Company, directly or indirectly, through its officers or agents, owns or controls or has control of the works formerly owned by Warden, Frew & Company, Lockhart, Frew & Company, J. A. Bostwick & Company, Charles Pratt & Company, the Acme Refining Company, the Imperial Refining Company, the Camden Consolidated Oil Company, the Devoe Manufacturing Company, or the refineries at Hunters Point, New York, or any of them? Do you recall that?—A. I do not recall the testimony of Col. Payne, that testimony to which you have now referred.

Q. Do you understand it to be true that neither the Standard Oil nor its officers nor agents owned then or controlled any of these refineries?—A. When you say Standard Oil——

Q. I mean the Standard Oil Company of Ohio.—A. Of Ohio?

Q. Directly or indirectly, through its officers or agents, owns or controls or has controlled other works formerly owned by these parties.—A. A distinction is there to be made. The Standard
12696 Oil Company could own properties at Cleveland. The Standard Oil Company was limited in respect to what it as a company could own.

Q. Did not the officers and agents of the Standard Oil Company at that time control the majority of the stocks of those various companies?

Mr. ROSENTHAL. Do you mean as officers and agents of the Standard Oil?

Mr. KELLOGG. I don't care whether they were as officers or as individuals.

Mr. MILBURN. That is what he means.

WITNESS. It may be that properties were owned by the individuals who were the stockholders in this Standard Oil Company of Ohio.

Q. Is it not a fact that those affidavits were made for the purpose of concealing the true ownership and control of those various companies and their alliance with the Standard Oil Company?—A. I should say not, though I can not now pretend to interpret such papers at this distant time.

Q. Did you have a suit with James Corrigan in which you furnished him certain statements as to the earnings of the trustees?—A. I believe I did.

(Papers marked "Petitioner's Exhibits 940, 941, and 942.")

Q. I show you petitioner's Exhibit 940 and ask you if that is a statement of the balance sheet of the trustees of December 31, 1882, showing the investments in corporate stocks having an actual net value of $65,321,832.40, representing the net assets of the various corporations; also petitioner's Exhibit 941, and ask you if that is a

condensed statement showing the net earnings and depreciation and net assets of the various companies during the years 1883 to 1896; also petitioner's Exhibit 942, and ask you if that is the balance sheets of the trustees for the years 1892 to 1896, inclusive?—A. Do you mean 1892 to 1896?

Q. Yes.

Mr. ROSENTHAL. That is, the same being petitioner's Exhibits 940, 941, and 942?

Mr. KELLOGG. Yes.

Mr. ROSENTHAL. These all purport to be correct copies from the record in the Corrigan case, do they not?

Mr. KELLOGG. They were so given to us to be, Mr. Rosenthal.

Mr. ROSENTHAL. They may be taken as true and correct.

Mr. KELLOGG. They are exact copies, I take it.

Mr. ROSENTHAL. Subject, of course, to our checking them up at any time.

Mr. KELLOGG. And they are correct statements of what they purport to be.

Mr. ROSENTHAL. They are copies, and we assume that that is so.

Mr. KELLOGG. Subject to any correction, of course.

Mr. ROSENTHAL. We assume you correctly copied from the Corrigan record that which appears on those exhibits.

Mr. KELLOGG. Yes.

Q. Now, the statements furnished in that Corrigan record of these various things I have enumerated were correct statements as you understood them, Mr. Rockefeller?

Mr. ROSENTHAL. That may be taken as so, of course.

Mr. KELLOGG. All right.

WITNESS. If I made any statement to Mr. Corrigan or anybody else, I believed it was correct.

Q. There are a few companies, Mr. Rockefeller, I would like to ask you about, that I did not yesterday, and one of those that appears in this list (perhaps Mr. Rockefeller may not know about this. I don't know) is the——

Mr. ROSENTHAL. What list is that?

Mr. MILBURN. That is in the Vilas, Keith & Chester?

Mr. KELLOGG. Yes.

Q. Do you remember the Producers' Consolidated Land & Petroleum Company?—A. I recall such a name.

Q. A large refining company, having a refinery at Bayonne, New Jersey, and refineries in Pennsylvania?—A. I recall such a one at Bayonne. I do not recall about the refineries in Pennsylvania to which you refer.

Q. Did you acquire a part of the shares of that company in 1877?—A. The date I could not state. We acquired that property, all or in part.

Q. You acquired the shares of that corporation, didn't you?—A. We acquired that property. I should say we bought that property, the whole thing.

Q. This trust agreement seems to list 14,713 shares of the capital stock of the Producers' Consolidated Land & Petroleum Company. My recollection is that there were 25,000 shares.

Mr. ROSENTHAL. It was reduced.

Q. And that your company got one-half, or about one-half,
12699 the stock?—A. I don't remember about the particulars concerning it.

Q. Do you know a concern known as the General Industrials Development Syndicate (Limited), of London, England?—A. No, sir; I do not.

Q. Never heard of it?—A. I may have heard such a name, but I do not know about such a company.

Q. Is it owned by the Standard Oil Company or any of the Standard Oil companies?—A. I could not say.

Q. It appears to own all the stock of the Manhattan Oil Company of Ohio.

Mr. MILBURN. We object to that question as pertaining to a subject-matter not referred to or covered by the direct-examination.

Q. Do you know the Manhattan Oil Company of Ohio?—A. I do not.

Q. You know nothing about it?—A. I know nothing about it.

Q. You don't know whether the Standard Oil Company owns either one of these companies?—A. I could not state.

Q. Or any Standard Oil interest?—A. I could not state about either of these companies to which you are now referring, to my knowledge.

12700 Q. Do you know a man by the name of McDonald, who used to live in London, connected with the Standard Oil Company—James McDonald?—A. I know a James McDonald of Cincinnati, Ohio.

Q. Has he for many years been in the employ of the Standard Oil Company or some of the companies?—A. I could not say what Mr. McDonald has been doing in these late years.

Q. It appears by the testimony in this case that the Anglo-American Oil Company (Limited), one of the Standard Oil companies, has an account against Mr. McDonald of something over $2,000,000. Do you know about it?—A. I do not.

Q. Who in the Standard Oil would know about that?—A. I could not tell you.

Q. Who would know about this General Industrials (Limited)?—A. I could not say.

Q. You know nothing about it whatever?—A. I know nothing about it at all, Mr. Kellogg.

Q. Do you know anything about the London Commercial Trading & Investment Company of London?—A. I do not.

Q. You don't know whether that company owns the stock of the Security Oil Company of Texas?—A. No, sir; I do not——

Q. Do you know who owns and controls the Security Oil Company of Texas?

Mr. MILBURN. He did not finish his answer, Mr. Kellogg.

WITNESS. Will you read the question?

(The official reporter read the question as follows: "Q. Do
12701 you know who owns and controls the Security Oil Company of Texas?"—A. I do not know anything about it.)

Q. Can you find out from the books and records of the Standard Oil Company whether the Standard Oil Company or any of its subcompanies owns or controls, directly or indirectly, the General Industrials Development Syndicate (Limited), or the Manhattan Oil Company, or the London Commercial Trading & Investment Company, or the Security Oil Company of Texas?

Mr. MILBURN. Oh, Mr. Kellogg, I don't think you should ask Mr. Rockefeller, who has not had an active relation for years and years and years with this company, to make investigations.

Mr. KELLOGG. Tell me, Mr. Milburn, who can give us the information, and I will rely on him.

Mr. ROSENTHAL. We will tell you before we get through; we will get part of it.

Q. Can you furnish us a list of corporations and properties acquired by the Standard Oil trustees between 1882 and 1892, including those acquired by the subcompanies held by the truestees, and those properties acquired in the same way between 1892 and 1899, and from 1899 up to the present time?—A. I have not been familiar with those acquirements. It would be a very difficult thing for me to undertake to go through with the history of that long period in which I have not been in a relation of knowledge and activity to the business. It would entail a good deal of hardship for me to undertake to work that all out.

Q. I do not expect you to do it personally.—A. No.

Q. But as president of the Standard Oil Company, as presi-
12702 dent of the trustees, and as one of the liquidating trustees, you can give the proper directions to have that information made up, can you not?

Mr. ROSENTHAL. Just what is the information you want?

Mr. KELLOGG. Read it over. I stated it in my question.

(The official reporter read as follows: "Can you furnish us a list of corporations and properties acquired by the Standard Oil trustees between 1882 and 1892, including those acquired by the subcompanies held by the trustees, and those properties acquired in the same way between 1892 and 1899, and from 1899 up to the present time?")

Mr. ROSENTHAL. Such lists are substantially prepared already and will be put in by us as a part of the defense in this case.

Mr. KELLOGG. All right. If they are, then Mr. Rockefeller need not do it.

Q. I notice by the bill and answer in this case that a large number or a number of Standard Oil officials and officers are directors in various railroads throughout the United States. Do you understand that to be true?

Mr. MILBURN. Is that in the answer or the petition?

Mr. KELLOGG. The answer admits it.

Mr. MILBURN. I object to this question on the ground that the subject-matter is not referred to or covered by the direct examination, and to all questions along the same line.

Q. Do you understand that to be true?—A. Will you kindly repeat the question?

12703 (The official reporter read the question, as follows: "Q. I notice by the bill and answer in this case that a large number or a number of Standard Oil officials and officers are directors in various railroads throughout the United States. Do you understand that to be true?")

Mr. MILBURN. I want to add another objection to that. It seems to me that if the bill and answer show a fact, it must be immaterial to ask the witness what the bill and answer show.

Mr. KELLOGG. Well, it is a preliminary question merely.

Mr. MILBURN. If you ask about anything along that line, it is subject to the objection that I have taken.

Q. Do you understand that to be correct, Mr. Rockefeller?—A. I can speak for myself personally, if I am required to answer.

Q. All right, go ahead.—A. Is that in respect to whether I am or not a director in a railroad or railroads?

Q. Or any other Standard officials, other than those in this list which I show you?

Mr. MILBURN. That is the list to which reference is being made. [Handing the witness bill of complaint, opened at page 165.]

A. I can not speak particularly with reference to others to whom you refer in this question. I could speak in reference to myself. I may be a director in some railroad company in the United States, but at this moment I do not recall any railroad company in which I am a director.

Q. Are you and have you for ten years last past been very largely interested in railroads as a stockholder or security

12704 holder, over which your various companies have been doing business in transportation of products?

Mr. MILBURN. The same objection to this; that is, the objection which refers to a subject-matter not covered by or referred to in the direct examination, and that it is immaterial.

A. Am I to answer the question?

Q. Yes.—A. I am an investor. I may have stock in a railroad company over which shipments are made by this oil interest.

Q. Are you such an investor in the stocks and securities of the roads named on page 165 and 166 of the bill of complaint, in which Mr. F. T. Gates, C. W. Harkness, H. Clay Pierce, Charles M. Pratt, Henry H. Rogers, John D. Rockefeller, jr., William C. Rockefeller, William Rockefeller, and Henry M. Flagler are respectively directors in one or more?—A. This is on page 165?

Q. 165 and 166.—A. 165. Do you desire me to speak of whether I am interested?

Q. Or have been during the last ten years in those roads?—A. In the Wisconsin Central Railway Company I am a holder of some bonds. I have been a holder of these bonds——

Q. I mean, Mr. Rockefeller, whether you are directly or indirectly; whether the stock is in your name or not, whether it is held for you?—A. Very good. I will state as nearly as I can state. These bonds I own. Whether these bonds are registered bonds and appear upon the books of this company in my name I do not know. I am the owner of some of these bonds of the Wisconsin Central Rail-
12705 way Company.

(A recess was here taken for five minutes.)

Q. Were you for many years interested in the stocks and bonds of the Wisconsin Central?—A. Yes, sir; for many years.

Q. The Pennsylvania Railroad?—A. No, sir, not in the Pennsylvania, excepting at different times I have had a small interest in the shares. I may possibly have, and probably have, bonds of that system.

Q. A large amount or a small amount?—A. In the bonds I may have considerable of the Pennsylvania system or some of its branches. As to the stock, my holdings are very small, and for periods of time I have none. My holdings are very small in the stock to-day.

Q. Chicago, Milwaukee & St. Paul?—A. I have none of their stock. Do you ask me about their bonds?

Q. Yes.—A. Presumably I have their bonds, but I could not state that.

Q. Mr. C. W. Harkness, I believe, Mr. William Rockefeller, and one or two other Standard Oil men are directors of that road. Do you recall that?—A. I know that my brother is a director in the St. Paul, and I can not positively speak in respect to Mr. Charles Harkness.

Q. Can you name rapidly the railroads that you have been interested in as stockholder or bondholder during this time, ten years last past?—A. As to bondholder I could not name. I might have had bonds of different and many systems, more or less of bonds. They were issued from time to time as an investment. As to stocks, not a great number of different companies. Not a great num-
12706 ber. I presume I may have at the present time stocks in six or eight or ten different railroad corporations. My holdings are more in the bonds.

Q. Can you name those six or eight or ten that you have been interested in in a stock way in the last ten years?—A. I could name a number in which I am at present interested, if I am required to answer, but of course these gentlemen from the Stock Exchange over there [waving hand at the spectators at the end of the room] might think that I was not very wise. I have no personal reasons for not stating it, though I should prefer not to parade my individual investments unless it is going to further the cause of justice here.

Q. I have no desire to require you to do so, Mr. Rockefeller——A. I thank you.

Q.——beyond what is necessary for showing the control over railroads in this case. If you will make up a statement and submit it to us at some future time, I will take it under consideration, and you may return after we have looked it over.

Mr. ROSENTHAL. Let him answer that general question, if he can.

Q. Can you name the railroads?—A. In which I am at present?

Q. Yes, and have been during the last ten years a stockholder.—A. Well, I could name some of the railroads. I think I could name nearly all of the railroads in which I have stock at the present time. It would be more difficult to name the railroad companies in which I have had stock for a period of ten years. I do not recall but one railroad company in which I have been a continuous owner
12707 for a long period. I could name that company. Yes, perhaps I could name more than one company. Am I to name the railroad companies or is that to be left for me to give a statement?

Q. I am perfectly willing you should make up a statement showing the securities owned directly or indirectly in railroads for a term of years and submit it to us, if you can not now name them offhand.—A. I am willing, if it is desired, having made this explanation that any investor of money would prefer not to publish his investments for obvious reasons, and that is the substantial reason for my preferring to withhold.

Q. What is the object of these various individuals interested in and being officers of the Standard Oil Company being directors in so many railroads? Is it merely representing their investments, or the interests of the Standard Oil Company?—A. Oh, not the interests of the Standard Oil Company in any case that I recall. The stockholders in the Standard Oil Company—many of them—have been for long years gentlemen engaged also in other investments, and some of their investments have tended in the direction of the upbuilding of the railroads of the country. Perhaps notably my brother, who has in his life of the last thirty years preferred that form of investment, and perhaps banking and trust companies, to some others, and that is all there is to it.

Q. I notice by the record in this case a balance sheet of December 31, 1906, that the Standard Oil Company of New York was a very large loaner of money on Stock Exchange collaterals in New
12708 York. Do you know if that has been the custom of the Standard Oil Company at other times to loan large sums of money in the Street?—A. This interest is now so large that they can not rely upon funds which they could secure—they can not surely rely upon funds which they can secure from the banking institutions, and consequently they are obliged, in view of the fact that the very nature of the business requires every year, in order to perpetuate cash returns of modest dividends—they are obliged to continue very large investments of money—millions of dollars in each year—and it is a matter of great importance to them not to fail to make the investments in the increase of their plants, etc. I should say that that was the explanation of their having at that particular time extra funds.

Q. These companies, many of them, carry a very large surplus over and above moneys used for the payment of dividends, do they not?—A. I could not speak about that from my personal knowledge for many years. I do not know about that.

Q. Isn't it a fact that at times some one of the companies, or the Standard Oil Company of New Jersey for them, does loan in the Street many millions of dollars, as high as $100,000,000 at a time, on railroad and other Stock Exchange collaterals?—A. I have never known of their making loans of but a very modest fraction of such an amount, and I have no idea at all that their loans do ever run larger than about the amount——

Q. $32,000,000?—A. Something like that. That is a very large amount. I should say that loans of five, ten, fifteen, and possibly five or ten more, might have been made, and continued along
12709 as a necessity to make the payments for their investments which constantly require the additional money.

Q. Haven't they loaned more than $32,000,000 at any one time in the Street?—A. I say that the amount of $32,000,000 was—of that I can not definitely speak, but from the best of my judgment around $32,000,000 would be about the maximum. As a stockholder I should be protesting and asking for my dividend.

Q. You do not think that the Standard Oil Company as a manufacturing concern should do a banking business?

Mr. MILBURN. Oh, I object to this question as utterly immaterial. It does not do a banking business. It does whatever any big concern in this city does with its surplus funds for temporary use.

Q. Doesn't it keep a very large surplus beyond the necessity of its dividends or its temporary uses?—A. I should say not, according to the best judgment of the men who are most familiar with the requirements of funds. I remember to have raised just that question within a year or two. I wrote a note, made an inquiry: Could they not get on with the business and not have so much money as such sums? I should say that ordinarily a smaller sum, unless they knew that the payments would require the money.

Q. But you do not know that they have not loaned larger sums than that?

Mr. MILBURN. I object to that as immaterial. You talk about wasting time here in this taking of testimony, and this is obviously a waste of time.

Q. Now, you say you can not give the railroads in which
12710 you have had investments of bonds within the last ten years?—A. I can not give you the railroads in which I have had investments in bonds. I could give you the names of the railroad companies in which at present I have investments in stocks and, in some cases, in bonds.

Q. Will you please give them to us, all of them.—A. Having reference again to the objection, which seems to be well taken in that regard, I will try to state. I have——

Mr. MILBURN. I object to the question. I object to this witness being asked to disclose his private investments in railroads in this hearing as incompetent, improper, and as not a matter pertaining to any issue in this case or having any relevancy or bearing, and as not referring to a matter touched upon or in any way referred to or covered by the direct examination.

Mr. KELLOGG. It is directly alleged in the bill that through the directors and ownerships of these various parties they have influenced railroads to give them discriminatory rates.

Mr. MILBURN. His directorships or the directorships of anybody representing him we have no objection to his stating, but that he should be asked here what his private investments have been in railroads at any time I regard as utterly incompetent.

Mr. MILLER. Especially in view of the fact that he has testified that he had not in any way whatever influenced the action of railroads.

Mr. KELLOGG. How are you going to tell? If Mr. Rocke-
12711 feller will make up a statement I will excuse him until that statement is rendered.

Mr. MILBURN. I do not want to undertake to say to Mr. Kellogg that he should prepare for your consideration and inspection a list of his private investments. I am not prepared to do that in this case.

Q. You can not give a statement of the securities of these railroads you have owned during the last ten years?—A. I can not give you a statement of bonds which I own. The bonds which I own are not the bonds of railroads alone. The bonds which I own are bonds which I buy as any investor buys, as an investment.

Q. I am talking about these railroads alone, not about outside matters.—A. The stocks I do not buy and permanently hold as I hold the bonds. I could, but I would prefer not to give the names of the railroad companies in which I have more or less of shares. I have not large holdings of railroad stocks excepting in perhaps two or three companies, and there is no significance in respect to those ownerships. They are purely a matter of investment, and made for no other purpose.

Q. What are the companies during the last ten years?—A. During the last ten years I could not state, but as nearly as I could state for to-day I should say some of the shares of the Delaware, Lackawanna & Western, some of the shares of the New York Central, some of the shares of the Pennsylvania Central, some of the shares of the Western Maryland, the Missouri Pacific, a railroad in Mexico——

Q. In this country is sufficient.—A. A railroad in Mexico, the title of which I can not give without a moment's thought.
12712 Q. The New Haven & Hartford?—A. I have no shares of the New Haven & Hartford.

Q. Have you had during ten years?—A. I do not think I have had, if any, more than only a very few shares, which were sold after a short period.

Q. The Union Pacific and the Southern Pacific?—A. In the Union Pacific I have no railway shares. I have no railway shares of the Southern Pacific.

Q. Any other roads?—A. I think there are.

Q. Can you now give them?—A. Well, I will try. If the stenographer will be good enough to read the names of these that I have already given, that will assist me.

Mr. MILBURN. How is that?

WITNESS. If the stenographer will be kind enough to read the names of these railroad companies in which I have stock, I will see if that will aid me to name any other companies in which I have stock.

Mr. MILBURN. Well, you need not overtax yourself. Just state what you can remember.

WITNESS. [To the reporter.] Now if you will read.

(The reporter then read the list given by the witness.)

WITNESS. If Mr. Kellogg desires to ask about any other, if you have any list from which you could ask I will frankly answer whether I can or not.

Mr. KELLOGG. I can not call off the lists of the United States. You state what you remember, Mr. Rockefeller.

Mr. MILBURN. If you can not remember any more——

WITNESS. I jotted down some names on a paper at the
12713 recess, trying to see, and I don't know whether I have stated all those names or not. If Mr. Milburn has it I am perfectly willing to refresh my memory and add any that are not put down there. Now, are there any names which I have not called?

Mr. MILBURN. The Texas Pacific.

WITNESS. The Texas Pacific; I have a few shares of the Texas Pacific.

Mr. MILBURN. First preferred Erie.

WITNESS. First preferred Erie.

Mr. MILBURN. Colorado Southern.

WITNESS. I have a few shares, maybe 500 shares or such a matter, of the Colorado Southern.

Q. Now, you have been a very large owner of securities of a great many other railroads during these years?—A. This is an indication of my status in respect to the ownership of the stocks of railroads to-day, which is substantially correct.

Q. Now, as to bond ownerships and securities, you have been a large owner in substantially all the leading systems of the United States, haven't you?—A. Well, I could not say that. I would not say that.

Q. Well, generally?—A. I am grateful to say that a great many of them I did not invest in. [Laughter.]

WITNESS. I have not said anything amiss?

Mr. ROSENTHAL. How about the Great Western, that our friend Kellogg is general counsel of?

Q. Generally speaking, Mr. Rockefeller, you have been a very large investor, as I understand you, of the bonds of different
12714 railroad systems in the country, many of them?—A. I buy the bonds as any other investor buys bonds, of whatever good issues come out, larger or smaller quantities, according to our estimate of their desirability to put aside as an investment.

Q. I was trying to ask you in a general way. If you will refresh your memory between now and 2 o'clock I will just ask a few more questions on that line and then I will be through.—A. I can state as well now as I could state later about that without a good deal of work.

Q. Well, can you state now?

Mr. MILBURN. He puts a general statement. Just see if you can't get along with that.

WITNESS. If you will kindly put the question I will try.

Q. All right. Have you been a large owner of the securities of various of the leading railroads of this country during the last ten years?—A. I have been during that period an owner to a greater or less extent in the bonded indebtedness of railroad corporations, in common with other corporations borrowing money, and to a lesser extent I should say in the shares, the investments being made with reference to security and permanency as we estimate those loans.

Q. I would like to know now, generally, if that includes the principal railroad systems of the country, if you can state?—A. I should not think that it would be correct to say that it did. No; I should not think so, for the railways of this country represent investments of hundreds of thousands of times any amount of money which I have to invest.

Q. I am not talking about the total amount of their securi-
12715 ties, Mr. Rockefeller; I am talking about the principal railway systems of the country.—A. I should say not. I should say there were a good many investments of that kind even that I have not been privileged to invest in.

Q. That may be so, but can't you give us an idea of what railway systems?—A. To give anything like a correct idea of such investments as that would be an utter impossibility. It would be an utter impossibility.

Q. That is the best information you can give us on that subject?

Mr. MILBURN. Say yes and let us pass on.

A. I do not see how I could answer it otherwise.

(A recess was here taken until 2 o'clock p. m.)

12716 AFTERNOON SESSION.

JOHN D. ROCKEFELLER recalled and his cross-examination resumed, as follows:

By Mr. KELLOGG:

A paper was marked Petitioner's Exhibit 943.

Mr. KELLOGG. I offer in evidence petitioner's Exhibit 943, being a transcript of docket entries in the case of the Standard Oil Company of Ohio vs. Scofield et al.

Mr. ROSENTHAL. We object to petitioner's Exhibit 943 on the ground that it is not cross-examination and is immaterial.

Q. Mr. Rockefeller, during the last ten years have you from time to time purchased and held for the purpose of investment the bonds of a number of the principal railways of the United States or their subsidiary companues?—A. I have.

Q. You can not give those in detail here at present?—A. It would be utterly impossible.

Mr. KELLOGG. That is all.

Redirect examination by Mr. MILBURN:

Q. Mr. Rockefeller, your attention was called by counsel for the Government to petitioner's Exhibit 770, which is an agreement between various pipe-line companies, dated September 4, 1874, to go into effect on the first day of October, 1874; and referring to that exhibit I want to ask you about your interests in the various companies mentioned—that is, say, in September and October, 1874. The first name is Vandergrift, Forman & Pit-

12717 cairn, partners, trading under the name of the United Pipe Lines and owning various gathering systems. Had you any interest in that partnership at that time according to your recollection?—A. There was a fractional interest, I should say about a third.

Q. The next company mentioned is the Union Pipe Company. Had your interests any interest in that company at that time?—A. Not that I recall. I believe not.

Q. The next is the Antwerp Pipe Company and the Oil City Pipe Company. How was it as to them?—A. We had no interest in those companies.

Q. The next is the American Transfer Company, a corporation under the laws of the State of Pennsylvania.—A. We had a large interest, or all of that.

Q. So that your recollection would be that you owned that company?—A. Substantially so.

Q. The next company named is the Grant Pipe Company, a corporation under the laws of the State of Pennsylvania. Had you any interest in that company?—A. No.

Q. The next name is the Karns Pipe Line Company, a corporation under the laws of the State of Pennsylvania. Had you any interest in that company?—A. No, sir.

Q. The next is the Relief Pipe Line Company, another corporation of Pennsylvania. Had you any interest in that company?—A. I had not.

Q. The next is the Pennsylvania Transportation Company, another Pennsylvania corporation. Had you any interest in that company?—A. I had not.

12718 Q. The last is Vandergrift, Forman & Pitcairn, trading under the name of Vandergrift, Forman & Company, and owning the Milton and Sandy Pipe Lines. Had you any interest in these pipe lines at that time—the Milton and Sandy Pipe Lines?—A. I think only the interest of the third in that earlier system you mentioned, the United.

Q. Do you recall whether that third interest——A. Well, I say a third.

Q. Assuming it to be a third, do you remember whether that third extended to these lines, known as the Milton and Sandy Pipe Lines?—A. I should say not.

Q. You have been asked about your interests in railroad corporations, in the stocks and bonds of such companies. Have you ever at any time sought to influence any railroad company as its stockholder or bondholder, or in any other capacity, with respect to its rates or its supplies or any matter whatsoever pertaining to the business of the Standard Oil Company or organization?—A. I have not.

Q. Have you ever known of any of your associates, officers or directors of the Standard Oil concern, seeking to use such an influence?—A. Not to my knowledge; no, sir.

Q. You were subpœnaed to appear here on behalf of the Standard Oil Company of New Jersey, Mr. Rockefeller?—A. I was.

Q. And did you appear here solely pursuant to that subpœna?—A. I did.

Q. That is, I mean by appearing here, appearing here and testifying as a witness?—A. Yes, sir.

Q. That subpœna was served upon you by the United States marshal?—A. Yes, sir.

12719 Recross-examination by Mr. KELLOGG:

Q. You are the president of the Standard Oil Company of New Jersey, are you not?—A. I am.

Q. Did you direct that subpœna to be issued?—A. I did not.

Q. Who did?—A. I do not know.

Q. Did you talk over this subject with your general counsel as to issuing that subpœna?—A. I did not.

Q. You did not discuss it with him?—A. Not that I recall.

Q. Did you discuss it with your other counsel?—A. I have no counsel. What do you mean by "your other counsel?"

Q. You appear by counsel in this case, do you not?

Mr. ROSENTHAL. Mr. Elliott's general appearance?

Q. Mr. M. F. Elliott appeared personally for you as counsel in is case, did he not?—A. I have not employed any counsel for myself personally.

Q. Referring to this list of pipe-line companies which you testified owning an interest in in 1874, is it not true that the Union Pipe ines was the one owned by the Pennsylvania road or the Empire ransportation Company?—A. That may be so.

Q. Is not that your recollection?—A. I should think it was.

Q. Is it not a fact that within a few years after that, say three or our years, the American Transfer Company or United Pipe Lines cquired all these interests?

Mr. MILBURN. Yes; since 1877.

12720 A. I do not recall the date. Other interests were acquired a few years after those.

Q. In all these pipe lines?—A. Well, that they were acquired in each and every one of these pipe lines I could not state from my recollection.

Q. You knew you were going to be subpœnaed in this case, didn't you, Mr. Rockefeller, by the defendant, the Standard Oil Company?—A. I expected that they would want me to——

Q. You have been in consultation with Mr. Elliott and your counsel over this case for some time, have you not?—A. I have been spoken to from time to time about it.

Q. And it was planned that you would be subpœnaed as a witness?—A. I understood a few days ago that I would be desired; yes, sir.

Redirect examination by Mr. MILBURN:

Q. Mr. Elliott is the general counsel of the Standard Oil Company of New Jersey?—A. He is.

Q. And some time ago were you advised that you were going to be subpœnaed, and asked to come to the office?—A. I was.

Q. That you were going to be subpœnaed as a witness on behalf of his company, of the Standard Oil Company of New Jersey?—A. Yes, sir.

Q. And asked to come to the office?—A. Yes, sir.

Q. And you came to the office?—A. Yes, sir.

Q. You have not been much at 26 Broadway for a number of years, have you?—A. Oh, no; I have not.

Q. And you came to the office and after that you were in

12721 consultation with counsel?—A. More or less.

Mr. MILBURN. That is all.

Mr. KELLOGG. I wish to reserve the right to further cross-examine Mr. Rockefeller if I should find there is any matter about which I desire to ask him. With that reservation, that is all.

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